

Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761114709595>

CA20N
XB
-B56

BILL 1

13

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to revise the
Reciprocal Enforcement of Maintenance Orders Act

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill is a revision of the *Reciprocal Enforcement of Maintenance Orders Act* and adopts the Uniform Act recommended by the Uniform Law Conference of Canada.

The principal changes are:

1. The choice of laws is simplified by providing that the confirming court apply the law of the originating jurisdiction as revealed by relevant enactments filed with it.
2. The Act is available to a claimant who moves out of the jurisdiction equally as to a respondent.
3. Technical distinctions between confirmed provisional orders and final orders are removed.
4. Reciprocal enforcement of written support agreements is provided for in the same way as court orders for support.
5. Provision is made for reciprocal enforcement to include a finding as to putative fatherhood.
6. Applications for variation or rescission of orders may be made in the local court and reciprocal enforcement procedures apply.
7. A welfare authority may initiate applications where the authority is providing support.
8. Provision is made for statements of payments and arrears of support to be provided by the court in which the order is enforced.

BILL 1

1982

An Act to revise the Reciprocal Enforcement of Maintenance Orders Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Attorney General" includes a person authorized by the Attorney General to act for him in the performance of a power or duty under this Act;
- (b) "certified copy" means, in relation to a document of a court, the original or a copy of the document certified by the original or facsimile signature of a proper officer of the court to be a true copy;
- (c) "claimant" means a person who has or is alleged to have a right to maintenance;
- (d) "confirmation order" means a confirmation order made under this Act or under the corresponding enactment of a reciprocating state;
- (e) "court" means an authority having jurisdiction to make an order;
- (f) "final order" means an order made in a proceeding of which the claimant and respondent had proper notice and in which they had an opportunity to be present or represented and includes,
 - (i) the maintenance provisions in a written agreement between a claimant and a respondent where those provisions are enforceable in the state in which the agreement was made as if contained in an order of a court of that state, and

(ii) a confirmation order made in a reciprocating state;

(g) "maintenance" includes support or alimony;

(h) "order" means an order or determination of a court providing for the payment of money as maintenance by the respondent named in the order for the benefit of the claimant named in the order, or the maintenance provisions of an order or determination that includes other matters;

(i) "provisional order" means an order of a court in Ontario that has no force or effect in Ontario until confirmed by a court in a reciprocating state or a corresponding order made in a reciprocating state for confirmation in Ontario;

(j) "reciprocating state" means a state declared under section 19 to be a reciprocating state and includes a province or territory of Canada;

(k) "registered order" means,

(i) a final order made in a reciprocating state and filed under this Act with a court in Ontario,

(ii) a final order deemed under subsection 2 (3) to be a registered order, or

(iii) a confirmation order that is filed under subsection 5 (8);

(l) "registration court" means the court in Ontario,

(i) in which the registered order is filed under this Act, or

(ii) that deemed a final order to be a registered order under this Act;

(m) "respondent" means a person in Ontario or in a reciprocating state who has or is alleged to have an obligation to pay maintenance for the benefit of a claimant, or against whom a proceeding under this Act, or a corresponding enactment of a reciprocating state, is commenced;

(n) "state" includes a political subdivision of a state and an official agency of a state.

2.—(1) Where the Attorney General receives a certified copy of a final order made in a reciprocating state with information that the respondent is in Ontario, the Attorney General shall designate a court in Ontario for the purposes of the registration and enforcement of the order and forward the order and supporting material to that court. Final orders of reciprocating state

(2) On receipt of a final order transmitted to a court under subsection (1) or under a provision in a reciprocating state corresponding to clause 5 (8) (a), the proper officer of the court shall file the order with the court and give notice of the registration of the order to the respondent. Filing for registration

(3) Where a final order is made in Ontario and the claimant subsequently leaves Ontario and is apparently resident in a reciprocating state, the court that made the order shall, on the written request of the claimant, the respondent or the Attorney General, deem the order to be a registered order. Claimant leaving Ontario after final order made in Ontario

(4) A registered order varied in a manner consistent with this Act continues to be a registered order. Variation of registered order

(5) A respondent may, within one month after receiving notice of the registration of a registered order, apply to the registration court to set the registration aside. Setting aside a registered order

(6) On application under subsection (5), the registration court shall set aside the registration if it determines that the order was obtained by fraud or error or was not a final order. Grounds

(7) An order determined not to be a final order and set aside under subsection (6) may be dealt with by the registration court under section 5 as a provisional order. Disposition

(8) Where an order purporting to be a final order is made by a court in a reciprocating state and the order is not enforceable in Ontario under the conflict of laws rules of Ontario, the court in Ontario may, in its discretion, deem the order to be a provisional order and deal with it under section 5. Invalid final order treated as provisional

3.—(1) On application by a claimant, a court may, without notice to and in the absence of a respondent, make a provisional order against the respondent. Making of provisional orders

(2) An order under subsection (1) may only include the maintenance provisions the court could have included in a final order in a proceeding of which the respondent had notice in Ontario but in which he failed to appear. Maintenance provisions in provisional orders

(3) Where a provisional order is made, a proper officer of the court shall send to the Attorney General for transmission to a reciprocating state, Transmission of provisional orders

- (a) three certified copies of the provisional order;
- (b) a certified or sworn document setting out or summarizing the evidence given in the proceeding;
- (c) a copy of the enactments under which the respondent is alleged to have an obligation to maintain the claimant; and
- (d) a statement giving available information respecting identification, location, income and assets of the respondent.

Further
evidence

(4) Where, during a proceeding for a confirmation order, a court in a reciprocating state remits the matter back for further evidence to the court in Ontario that made the provisional order, the court in Ontario shall, after giving notice to the claimant, receive further evidence.

Evidence and
recom-
mendations

(5) Where evidence is received under subsection (4), a proper officer of the court shall forward to the court in the reciprocating state a certified or sworn document setting out or summarizing the evidence with such recommendations as the court in Ontario considers appropriate.

New
provisional
orders

(6) Where a provisional order made under this section comes before a court in a reciprocating state and confirmation is denied in respect of one or more claimants, the court in Ontario that made the provisional order may, on application within six months from the denial of confirmation, reopen the matter and receive further evidence and make a new provisional order for a claimant in respect of whom confirmation was denied.

Affirmation

4.—(1) Where the parentage of a child is in issue and has not previously been determined by a court of competent jurisdiction, the parentage may be determined as part of a maintenance proceeding under this Act.

Relation in
proceeding
respecting
provisional
order

(2) If the respondent disputes parentage in the course of a proceeding to confirm a provisional order for maintenance, the matter of parentage may be determined even though the provisional order makes no reference to parentage.

Making of
confirmation
orders

5.—(1) Where the Attorney General receives from a reciprocating state documents corresponding to those described in subsection 3 (3) with the information that the respondent is in Ontario, the Attorney General shall designate a court in Ontario for the purpose of proceedings under this section and forward the documents to that court.

(2) On receipt of the documents referred to in subsection (1), the court shall serve or cause to be served upon the respondent a copy of the documents together with a notice of the confirmation hearing containing a notice to file a statement of financial affairs in the same manner as in a proceeding under the *Family Law Reform Act*, and shall proceed with the hearing taking into consideration the certified or sworn document setting out or summarizing the evidence given in the proceeding in the reciprocating state.

Procedure

R.S.O. 1980,
c. 152

(3) Where the respondent apparently is outside the territorial jurisdiction of the court and will not return, a proper officer of the court, on receipt of documents under subsection (1), shall return the documents to the Attorney General with available information respecting the whereabouts and circumstances of the respondent.

Report to
Attorney
General

(4) At the conclusion of a proceeding under this section, the court may make a confirmation order in the amount it considers appropriate or make an order refusing maintenance to any claimant.

Orders of
confirmation
or refusal

(5) Where the court makes a confirmation order for periodic maintenance payments, the court may direct that the payments begin from a date not earlier than the date of the provisional order.

Commence-
ment of
payments

(6) The court, before making a confirmation order in a reduced amount or before denying maintenance, shall decide whether to remit the matter back for further evidence to the court that made the provisional order.

Further
evidence

(7) Where a court remits a matter under subsection (6), it may make an interim order for maintenance against the respondent.

Interim order

(8) At the conclusion of a proceeding under this section, the court, or a proper officer of the court, shall,

Report and
filing

(a) forward a certified copy of the order to the court that made the provisional order and to the Attorney General;

(b) file the confirmation order, where one is made; and

(c) where an order is made refusing or reducing maintenance, give written reasons to the court that made the provisional order and to the Attorney General.

6.—(1) Where the law of the reciprocating state is pleaded to establish the obligation of the respondent to maintain a claimant resident in that state, the court in Ontario shall take judicial notice of that law and apply it.

Choice of law

Proof of
foreign
enactment

(2) An enactment of a reciprocating state may be pleaded and proved for the purposes of this section by producing a copy of the enactment received from the reciprocating state.

Adjournment

(3) Where the law of the reciprocating state is not pleaded under subsection (1), the court in Ontario shall,

- (a) make an interim order for maintenance against the respondent where appropriate;
- (b) adjourn the proceeding for a period not exceeding ninety days; and
- (c) request the Attorney General to notify the appropriate officer of the reciprocating state of the requirement to plead and prove the applicable law of that state if that law is to be applied.

Application of
local law

(4) Where the law of the reciprocating state is not pleaded after an adjournment under subsection (3), the court shall apply the law of Ontario.

Statement of
local law

(5) Where the law of a reciprocating state requires the court in Ontario to provide the court in the reciprocating state with a statement of the grounds on which the making of the confirmation order might have been opposed if the respondent were served and had appeared at the hearing of the court in Ontario, the Attorney General shall be deemed to be the proper officer of the court for the purpose of making and providing the statement of the grounds.

Variation or
rescission of
registered
orders

7.—(1) The provisions of this Act respecting the procedure for making provisional orders and confirmation orders apply with necessary modifications to proceedings, except under subsection (5), for the variation or rescission of registered orders.

Restricted
jurisdiction

(2) This section does not,

- (a) authorize a provincially appointed judge to vary or rescind a registered order made in Canada by a federally appointed judge; or
- (b) allow a registered order originally made under a federal enactment to be varied or rescinded except as authorized by federal enactment.

Powers of
provincially
appointed
judge

(3) Notwithstanding subsection (2), a provincially appointed judge may make a provisional order to vary or rescind a registered order made in Canada under a provincial enactment by a federally appointed judge.

Acceptance of
jurisdiction

(4) Subject to subsections (2) and (3), a registration court has jurisdiction to vary or rescind a registered order where both claimant and respondent accept its jurisdiction.

(5) Where the respondent is ordinarily resident in Ontario, a registration court may, on application by the claimant, vary or rescind a registered order.

Variation and
rescission
where
respondent
resides in
Ontario

(6) A registration court may make a confirmation order for the variation or rescission of a registered order where,

Confirmation
of provisional
orders of
variation and
rescission

- (a) the respondent is ordinarily resident in Ontario;
- (b) the claimant is ordinarily resident in a reciprocating state;
- (c) a certified copy of a provisional order of variation or rescission made by a court in a reciprocating state is received by the registration court through the Attorney General; and
- (d) the respondent is given notice of the proceeding and an opportunity to appear.

(7) A registration court may, on application by the respondent, make a provisional order varying or rescinding a registered order where,

Application
by respondent
residing
in Ontario

- (a) the respondent is ordinarily resident in Ontario; and
- (b) the claimant is ordinarily resident in the reciprocating state in which the order was first made,

and section 3 applies with necessary modifications to the proceeding.

(8) A registration court may, on application by the respondent, vary or rescind a registered order where,

Idem

- (a) the respondent is ordinarily resident in Ontario;
- (b) the claimant is ordinarily resident in a reciprocating state other than the state in which the order was first made; and
- (c) the registration court, in the course of the proceeding, remits the matter to the court nearest to the place where the claimant lives or works for the purpose of obtaining evidence on behalf of the claimant,

or where,

- (d) the respondent is ordinarily resident in Ontario;
- (e) the claimant is not ordinarily resident in a reciprocating state; and
- (f) the claimant is given notice of the proceeding.

Application by claimant resident in Ontario	(9) Where a claimant ordinarily resident in Ontario applies for a variation or rescission of a final order and the respondent is apparently ordinarily resident in a reciprocating state, the court may make a provisional order of variation or rescission and section 3 applies with necessary modifications to the proceeding.
Effect of variation or rescission of orders of Ontario by courts in reciprocating states	8. Where an order originally made in Ontario is varied or rescinded in a reciprocating state under the law in that state corresponding to section 7, the order shall be deemed to be so varied or rescinded in Ontario.
Enforcement	9.—(1) The registration court has jurisdiction to enforce a registered order notwithstanding that the order, <ul style="list-style-type: none"> (a) was made in a proceeding in respect of which the registration court would have had no jurisdiction; or (b) is of a kind that the registration court has no jurisdiction to make.
Application of R.S.O. 1980, c. 152	(2) The provisions of the <i>Family Law Reform Act</i> for the enforcement of maintenance orders apply with necessary modifications to registered orders and interim orders made under this Act.
Effect of registered order	(3) A registered order has, from the date it is filed or deemed to be registered, the same effect as if it had been a final order originally made by the registration court and may, both with respect to arrears accrued before registration, and with respect to obligations accruing after registration, be enforced, varied or rescinded as provided in this Act.
Status of order	(4) A registered order may be registered with another court in Ontario and enforced as if it were an order of that court.
Service not necessary	(5) Where a proceeding is brought to enforce a registered order, it is not necessary to prove that the respondent was served with the order.
Recording variations	(6) Where a registered order is being enforced and the registration court finds that the order has been varied by a court subsequent to the date of registration, the registration court shall record the fact of the variation and enforce the order as varied.
Welfare agency as claimant	10. A proceeding under this Act may be brought by, <ul style="list-style-type: none"> (a) the Ministry of Community and Social Services in the name of the Minister; or (b) a municipal corporation, including a metropolitan, district or regional municipality, but not including an area municipality thereof,

as claimant if the Ministry or municipality is providing a benefit under the *Family Benefits Act* or assistance under the *General Welfare Assistance Act* in respect of the support of the dependant. R.S.O. 1980, cc. 151, 188

11.—(1) The Attorney General shall, on request in writing by a claimant or an officer or court of a reciprocating state, take all reasonable measures to enforce an order made or registered under this Act. Duties of the Attorney General

(2) On receipt of a document for transmission under this Act to a reciprocating state, the Attorney General shall transmit the document to the proper officer of the reciprocating state. Transmission of documents

(3) The Attorney General may, in writing, authorize a person to perform or exercise a power or duty given to the Attorney General under this Act. Delegation

12.—(1) Where a document in the nature of an order or a certified copy of the document is received by a court in Ontario through the Attorney General, the court in Ontario shall characterise the document as a provisional order or a final order, according to the tenor of the document, and proceed accordingly. Documents from reciprocating states

(2) Where, in a proceeding under this Act, a document from a court in the reciprocating state contains terminology different from the terminology of this Act or customarily in use in the court in Ontario, the court in Ontario shall give a broad and liberal interpretation to the terminology so as to give effect to the document. Terminology

13. For the purposes of this Act, it shall be presumed, unless the contrary is established, that procedures taken in a reciprocating state have been regular and complete and that the court, making an order in a reciprocating state had jurisdiction to do so and that the jurisdiction is recognized under the conflict of laws rules of Ontario. Presumption of regularity

14.—(1) Where confirmation of a provisional order or registration of a final order is sought and the documents received by a court refer to amounts of maintenance or arrears not expressed in Canadian currency, a proper officer of the court shall first obtain from a bank a quotation for the equivalent amounts in Canadian currency at a rate of exchange applicable on the day the order was made or last varied. Conversion to Canadian currency

(2) The amounts in Canadian currency certified on the order by the proper officer of the court under subsection (1) shall be deemed to be the amounts of the order. Certification

Translation	(3) Where an order or other document received by a court is not in English or French, the order or other document shall have attached to it from the other jurisdiction a translation in English or French approved by the court and the order or other document shall be deemed to be in English or French for the purposes of this Act.
Appeals	15. —(1) Subject to subsections (2) and (3), a claimant, respondent or the Attorney General may appeal any ruling, decision or order of a court in Ontario under this Act and the <i>Family Law Reform Act</i> applies with necessary modifications to the appeal.
R.S.O. 1980, c. 152	
Time for appeal by appellant	(2) A person resident in the reciprocating state and entitled to appear in the court in the reciprocating state in the proceeding being appealed from, or the Attorney General on that person's behalf, may appeal within seventy-five days after the making of the ruling, decision or order of the court in Ontario appealed from.
Time for appeal by persons responding to appeal	(3) A person responding to an appeal under subsection (2) may appeal a ruling, decision or order in the same proceeding within fifteen days after receipt of notice of the appeal.
Order in force pending appeal	(4) An order under appeal remains in force pending the determination of the appeal, unless the court appealed to otherwise orders.
Evidentiary matters	16. —(1) In a proceeding under this Act, spouses are competent and compellable witnesses against each other.
Proof of documents	(2) In a proceeding under this Act, a document purporting to be signed by a judge, officer of a court or public officer in a reciprocating state shall, unless the contrary is proved, be proof of the appointment, signature and authority of the person who signed it.
Sworn documents and transcripts	(3) Statements in writing sworn by the maker, depositions or transcripts of evidence taken in a reciprocating state may be received in evidence by a court in Ontario under this Act.
Proof of default	(4) For the purposes of proving default or arrears under this Act, a court may receive in evidence a sworn document made by any person deposing to have knowledge of, or information and belief concerning, the fact.
Statement of payments	17. A registration court or a proper officer of it shall, on reasonable request of a claimant, respondent, the Attorney General, a proper officer of a reciprocating state or a court of the state, furnish a sworn itemized statement showing with respect to maintenance under an order,

- (a) all amounts that became due and owing by the respondent during the twenty-four months preceding the date of the statement; and
- (b) all payments made through the court by or on behalf of the respondent during that period.

18. Where a proper officer of a court in Ontario believes that a respondent under a registered order has ceased to reside in Ontario and is resident in or proceeding to another province or state, the officer shall inform the Attorney General and the court that made the order of any information he has respecting the whereabouts and circumstances of the respondent and, on request by the Attorney General, a proper officer of the court that made the order or the claimant, shall send to the court or person indicated in the request,

Transmission
of documents
by court
where re-
spondent
leaves
Ontario

- (a) three certified copies of the order as filed with the court in Ontario; and
- (b) a sworn certificate of arrears.

19. The Lieutenant Governor in Council may, where satisfied that laws are or will be in effect in a state for the reciprocal enforcement of orders made in Ontario on a basis substantially similar to this Act, by regulation, designate that state to be a reciprocating state.

Regulations

20. This Act does not impair any other remedy available to a claimant or another person, Ontario, a province, a state or a political subdivision or official agency of Ontario, a province or a state.

Saving

21. This Act applies to orders, whether provisional, confirmation, final or registered, notwithstanding that they were made or registered before this Act comes into force.

Application
to past orders

22. The *Reciprocal Enforcement of Maintenance Orders Act*, being chapter 433 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

23. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

24. The short title of this Act is the *Reciprocal Enforcement of Maintenance Orders Act, 1982*.

Short title

BILL 1

An Act to revise the
Reciprocal Enforcement of
Maintenance Orders Act

1st Reading
March 9th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

24DN
3
- 656

BILL 1

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to revise the
Reciprocal Enforcement of Maintenance Orders Act**

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 1

1982

An Act to revise the Reciprocal Enforcement of Maintenance Orders Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Attorney General" includes a person authorized by the Attorney General to act for him in the performance of a power or duty under this Act;
- (b) "certified copy" means, in relation to a document of a court, the original or a copy of the document certified by the original or facsimile signature of a proper officer of the court to be a true copy;
- (c) "claimant" means a person who has or is alleged to have a right to maintenance;
- (d) "confirmation order" means a confirmation order made under this Act or under the corresponding enactment of a reciprocating state;
- (e) "court" means an authority having jurisdiction to make an order;
- (f) "final order" means an order made in a proceeding of which the claimant and respondent had proper notice and in which they had an opportunity to be present or represented and includes,
 - (i) the maintenance provisions in a written agreement between a claimant and a respondent where those provisions are enforceable in the state in which the agreement was made as if contained in an order of a court of that state, and

- (ii) a confirmation order made in a reciprocating state;
- (g) “maintenance” includes support or alimony;
- (h) “order” means an order or determination of a court providing for the payment of money as maintenance by the respondent named in the order for the benefit of the claimant named in the order, or the maintenance provisions of an order or determination that includes other matters;
- (i) “provisional order” means an order of a court in Ontario that has no force or effect in Ontario until confirmed by a court in a reciprocating state or a corresponding order made in a reciprocating state for confirmation in Ontario;
- (j) “reciprocating state” means a state declared under section 19 to be a reciprocating state and includes a province or territory of Canada;
- (k) “registered order” means,
 - (i) a final order made in a reciprocating state and filed under this Act with a court in Ontario,
 - (ii) a final order deemed under subsection 2 (3) to be a registered order, or
 - (iii) a confirmation order that is filed under subsection 5 (8);
- (l) “registration court” means the court in Ontario,
 - (i) in which the registered order is filed under this Act, or
 - (ii) that deemed a final order to be a registered order under this Act;
- (m) “respondent” means a person in Ontario or in a reciprocating state who has or is alleged to have an obligation to pay maintenance for the benefit of a claimant, or against whom a proceeding under this Act, or a corresponding enactment of a reciprocating state, is commenced;
- (n) “state” includes a political subdivision of a state and an official agency of a state.

2.—(1) Where the Attorney General receives a certified copy of a final order made in a reciprocating state with information that the respondent is in Ontario, the Attorney General shall designate a court in Ontario for the purposes of the registration and enforcement of the order and forward the order and supporting material to that court. Final orders of reciprocating state

(2) On receipt of a final order transmitted to a court under subsection (1) or under a provision in a reciprocating state corresponding to clause 5 (8) (a), the proper officer of the court shall file the order with the court and give notice of the registration of the order to the respondent. Filing for registration

(3) Where a final order is made in Ontario and the claimant subsequently leaves Ontario and is apparently resident in a reciprocating state, the court that made the order shall, on the written request of the claimant, the respondent or the Attorney General, deem the order to be a registered order. Claimant leaving Ontario after final order made in Ontario

(4) A registered order varied in a manner consistent with this Act continues to be a registered order. Variation of registered order

(5) A respondent may, within one month after receiving notice of the registration of a registered order, apply to the registration court to set the registration aside. Setting aside a registered order

(6) On application under subsection (5), the registration court shall set aside the registration if it determines that the order was obtained by fraud or error or was not a final order. Grounds

(7) An order determined not to be a final order and set aside under subsection (6) may be dealt with by the registration court under section 5 as a provisional order. Disposition

(8) Where an order purporting to be a final order is made by a court in a reciprocating state and the order is not enforceable in Ontario under the conflict of laws rules of Ontario, the court in Ontario may, in its discretion, deem the order to be a provisional order and deal with it under section 5. Invalid final order treated as provisional

3.—(1) On application by a claimant, a court may, without notice to and in the absence of a respondent, make a provisional order against the respondent. Making of provisional orders

(2) An order under subsection (1) may only include the maintenance provisions the court could have included in a final order in a proceeding of which the respondent had notice in Ontario but in which he failed to appear. Maintenance provisions in provisional orders

(3) Where a provisional order is made, a proper officer of the court shall send to the Attorney General for transmission to a reciprocating state, Transmission of provisional orders

- (a) three certified copies of the provisional order;
- (b) a certified or sworn document setting out or summarizing the evidence given in the proceeding;
- (c) a copy of the enactments under which the respondent is alleged to have an obligation to maintain the claimant; and
- (d) a statement giving available information respecting identification, location, income and assets of the respondent.

Further
evidence

(4) Where, during a proceeding for a confirmation order, a court in a reciprocating state remits the matter back for further evidence to the court in Ontario that made the provisional order, the court in Ontario shall, after giving notice to the claimant, receive further evidence.

Evidence and
recom-
mendations

(5) Where evidence is received under subsection (4), a proper officer of the court shall forward to the court in the reciprocating state a certified or sworn document setting out or summarizing the evidence with such recommendations as the court in Ontario considers appropriate.

New
provisional
orders

(6) Where a provisional order made under this section comes before a court in a reciprocating state and confirmation is denied in respect of one or more claimants, the court in Ontario that made the provisional order may, on application within six months from the denial of confirmation, reopen the matter and receive further evidence and make a new provisional order for a claimant in respect of whom confirmation was denied.

Affirmation

4.—(1) Where the parentage of a child is in issue and has not previously been determined by a court of competent jurisdiction, the parentage may be determined as part of a maintenance proceeding under this Act.

Relation in
proceeding
respecting
provisional
order

(2) If the respondent disputes parentage in the course of a proceeding to confirm a provisional order for maintenance, the matter of parentage may be determined even though the provisional order makes no reference to parentage.

Making of
confirmation
orders

5.—(1) Where the Attorney General receives from a reciprocating state documents corresponding to those described in subsection 3 (3) with the information that the respondent is in Ontario, the Attorney General shall designate a court in Ontario for the purpose of proceedings under this section and forward the documents to that court.

(2) On receipt of the documents referred to in subsection (1), the court shall serve or cause to be served upon the respondent a copy of the documents together with a notice of the confirmation hearing containing a notice to file a statement of financial affairs in the same manner as in a proceeding under the *Family Law Reform Act*, and shall proceed with the hearing taking into consideration the certified or sworn document setting out or summarizing the evidence given in the proceeding in the reciprocating state.

Procedure

R.S.O. 1980,
c. 152

(3) Where the respondent apparently is outside the territorial jurisdiction of the court and will not return, a proper officer of the court, on receipt of documents under subsection (1), shall return the documents to the Attorney General with available information respecting the whereabouts and circumstances of the respondent.

Report to
Attorney
General

(4) At the conclusion of a proceeding under this section, the court may make a confirmation order in the amount it considers appropriate or make an order refusing maintenance to any claimant.

Orders of
confirmation
or refusal

(5) Where the court makes a confirmation order for periodic maintenance payments, the court may direct that the payments begin from a date not earlier than the date of the provisional order.

Commence-
ment of
payments

(6) The court, before making a confirmation order in a reduced amount or before denying maintenance, shall decide whether to remit the matter back for further evidence to the court that made the provisional order.

Further
evidence

(7) Where a court remits a matter under subsection (6), it may make an interim order for maintenance against the respondent.

Interim order

(8) At the conclusion of a proceeding under this section, the court, or a proper officer of the court, shall,

Report and
filing

- (a) forward a certified copy of the order to the court that made the provisional order and to the Attorney General;
- (b) file the confirmation order, where one is made; and
- (c) where an order is made refusing or reducing maintenance, give written reasons to the court that made the provisional order and to the Attorney General.

6.—(1) Where the law of the reciprocating state is pleaded to establish the obligation of the respondent to maintain a claimant resident in that state, the court in Ontario shall take judicial notice of that law and apply it.

Choice of law

Proof of
foreign
enactment

(2) An enactment of a reciprocating state may be pleaded and proved for the purposes of this section by producing a copy of the enactment received from the reciprocating state.

Adjournment

(3) Where the law of the reciprocating state is not pleaded under subsection (1), the court in Ontario shall,

- (a) make an interim order for maintenance against the respondent where appropriate;
- (b) adjourn the proceeding for a period not exceeding ninety days; and
- (c) request the Attorney General to notify the appropriate officer of the reciprocating state of the requirement to plead and prove the applicable law of that state if that law is to be applied.

Application of
local law

(4) Where the law of the reciprocating state is not pleaded after an adjournment under subsection (3), the court shall apply the law of Ontario.

Statement of
local law

(5) Where the law of a reciprocating state requires the court in Ontario to provide the court in the reciprocating state with a statement of the grounds on which the making of the confirmation order might have been opposed if the respondent were served and had appeared at the hearing of the court in Ontario, the Attorney General shall be deemed to be the proper officer of the court for the purpose of making and providing the statement of the grounds.

Variation or
rescission of
registered
orders

7.—(1) The provisions of this Act respecting the procedure for making provisional orders and confirmation orders apply with necessary modifications to proceedings, except under subsection (5), for the variation or rescission of registered orders.

Restricted
jurisdiction

(2) This section does not,

- (a) authorize a provincially appointed judge to vary or rescind a registered order made in Canada by a federally appointed judge; or
- (b) allow a registered order originally made under a federal enactment to be varied or rescinded except as authorized by federal enactment.

Powers of
provincially
appointed
judge

(3) Notwithstanding subsection (2), a provincially appointed judge may make a provisional order to vary or rescind a registered order made in Canada under a provincial enactment by a federally appointed judge.

Acceptance of
jurisdiction

(4) Subject to subsections (2) and (3), a registration court has jurisdiction to vary or rescind a registered order where both claimant and respondent accept its jurisdiction.

(5) Where the respondent is ordinarily resident in Ontario, a registration court may, on application by the claimant, vary or rescind a registered order.

Variation and rescission where respondent resides in Ontario

(6) A registration court may make a confirmation order for the variation or rescission of a registered order where,

Confirmation of provisional orders of variation and rescission

- (a) the respondent is ordinarily resident in Ontario;
- (b) the claimant is ordinarily resident in a reciprocating state;
- (c) a certified copy of a provisional order of variation or rescission made by a court in a reciprocating state is received by the registration court through the Attorney General; and
- (d) the respondent is given notice of the proceeding and an opportunity to appear.

(7) A registration court may, on application by the respondent, make a provisional order varying or rescinding a registered order where,

Application by respondent residing in Ontario

- (a) the respondent is ordinarily resident in Ontario; and
- (b) the claimant is ordinarily resident in the reciprocating state in which the order was first made,

and section 3 applies with necessary modifications to the proceeding.

(8) A registration court may, on application by the respondent, vary or rescind a registered order where,

Idem

- (a) the respondent is ordinarily resident in Ontario;
- (b) the claimant is ordinarily resident in a reciprocating state other than the state in which the order was first made; and
- (c) the registration court, in the course of the proceeding, remits the matter to the court nearest to the place where the claimant lives or works for the purpose of obtaining evidence on behalf of the claimant,

or where,

- (d) the respondent is ordinarily resident in Ontario;
- (e) the claimant is not ordinarily resident in a reciprocating state; and
- (f) the claimant is given notice of the proceeding.

Application
by claimant
resident in
Ontario

(9) Where a claimant ordinarily resident in Ontario applies for a variation or rescission of a final order and the respondent is apparently ordinarily resident in a reciprocating state, the court may make a provisional order of variation or rescission and section 3 applies with necessary modifications to the proceeding.

Effect of vari-
ation or
rescission of
orders of
Ontario by
courts in
reciprocating
states

8. Where an order originally made in Ontario is varied or rescinded in a reciprocating state under the law in that state corresponding to section 7, the order shall be deemed to be so varied or rescinded in Ontario.

Enforcement

9.—(1) The registration court has jurisdiction to enforce a registered order notwithstanding that the order,

- (a) was made in a proceeding in respect of which the registration court would have had no jurisdiction; or
- (b) is of a kind that the registration court has no jurisdiction to make.

Application of
R.S.O. 1980,
c. 152

(2) The provisions of the *Family Law Reform Act* for the enforcement of maintenance orders apply with necessary modifications to registered orders and interim orders made under this Act.

Effect of
registered
order

(3) A registered order has, from the date it is filed or deemed to be registered, the same effect as if it had been a final order originally made by the registration court and may, both with respect to arrears accrued before registration, and with respect to obligations accruing after registration, be enforced, varied or rescinded as provided in this Act.

Status of
order

(4) A registered order may be registered with another court in Ontario and enforced as if it were an order of that court.

Service not
necessary

(5) Where a proceeding is brought to enforce a registered order, it is not necessary to prove that the respondent was served with the order.

Recording
variations

(6) Where a registered order is being enforced and the registration court finds that the order has been varied by a court subsequent to the date of registration, the registration court shall record the fact of the variation and enforce the order as varied.

Welfare
agency as
claimant

10. A proceeding under this Act may be brought by,

- (a) the Ministry of Community and Social Services in the name of the Minister; or
- (b) a municipal corporation, including a metropolitan, district or regional municipality, but not including an area municipality thereof,

as claimant if the Ministry or municipality is providing a benefit under the *Family Benefits Act* or assistance under the *General Welfare Assistance Act* in respect of the support of the dependant. R.S.O. 1980, cc. 151, 188

11.—(1) The Attorney General shall, on request in writing by a claimant or an officer or court of a reciprocating state, take all reasonable measures to enforce an order made or registered under this Act. Duties of the Attorney General

(2) On receipt of a document for transmission under this Act to a reciprocating state, the Attorney General shall transmit the document to the proper officer of the reciprocating state. Transmission of documents

(3) The Attorney General may, in writing, authorize a person to perform or exercise a power or duty given to the Attorney General under this Act. Delegation

12.—(1) Where a document in the nature of an order or a certified copy of the document is received by a court in Ontario through the Attorney General, the court in Ontario shall characterise the document as a provisional order or a final order, according to the tenor of the document, and proceed accordingly. Documents from reciprocating states

(2) Where, in a proceeding under this Act, a document from a court in the reciprocating state contains terminology different from the terminology of this Act or customarily in use in the court in Ontario, the court in Ontario shall give a broad and liberal interpretation to the terminology so as to give effect to the document. Terminology

13. For the purposes of this Act, it shall be presumed, unless the contrary is established, that procedures taken in a reciprocating state have been regular and complete and that the court making an order in a reciprocating state had jurisdiction to do so and that the jurisdiction is recognized under the conflict of laws rules of Ontario. Presumption of regularity

14.—(1) Where confirmation of a provisional order or registration of a final order is sought and the documents received by a court refer to amounts of maintenance or arrears not expressed in Canadian currency, a proper officer of the court shall first obtain from a bank a quotation for the equivalent amounts in Canadian currency at a rate of exchange applicable on the day the order was made or last varied. Conversion to Canadian currency

(2) The amounts in Canadian currency certified on the order by the proper officer of the court under subsection (1) shall be deemed to be the amounts of the order. Certification

Translation	(3) Where an order or other document received by a court is not in English or French, the order or other document shall have attached to it from the other jurisdiction a translation in English or French approved by the court and the order or other document shall be deemed to be in English or French for the purposes of this Act.
Appeals	15. —(1) Subject to subsections (2) and (3), a claimant, respondent or the Attorney General may appeal any ruling, decision or order of a court in Ontario under this Act and the <i>Family Law Reform Act</i> applies with necessary modifications to the appeal.
R.S.O. 1980, c. 152	
Time for appeal by appellant	(2) A person resident in the reciprocating state and entitled to appear in the court in the reciprocating state in the proceeding being appealed from, or the Attorney General on that person's behalf, may appeal within seventy-five days after the making of the ruling, decision or order of the court in Ontario appealed from.
Time for appeal by persons responding to appeal	(3) A person responding to an appeal under subsection (2) may appeal a ruling, decision or order in the same proceeding within fifteen days after receipt of notice of the appeal.
Order in force pending appeal	(4) An order under appeal remains in force pending the determination of the appeal, unless the court appealed to otherwise orders.
Evidentiary matters	16. —(1) In a proceeding under this Act, spouses are competent and compellable witnesses against each other.
Proof of documents	(2) In a proceeding under this Act, a document purporting to be signed by a judge, officer of a court or public officer in a reciprocating state shall, unless the contrary is proved, be proof of the appointment, signature and authority of the person who signed it.
Sworn documents and transcripts	(3) Statements in writing sworn by the maker, depositions or transcripts of evidence taken in a reciprocating state may be received in evidence by a court in Ontario under this Act.
Proof of default	(4) For the purposes of proving default or arrears under this Act, a court may receive in evidence a sworn document made by any person deposing to have knowledge of, or information and belief concerning, the fact.
Statement of payments	17. A registration court or a proper officer of it shall, on reasonable request of a claimant, respondent, the Attorney General, a proper officer of a reciprocating state or a court of the state, furnish a sworn itemized statement showing with respect to maintenance under an order,

- (a) all amounts that became due and owing by the respondent during the twenty-four months preceding the date of the statement; and
- (b) all payments made through the court by or on behalf of the respondent during that period.

18. Where a proper officer of a court in Ontario believes that a respondent under a registered order has ceased to reside in Ontario and is resident in or proceeding to another province or state, the officer shall inform the Attorney General and the court that made the order of any information he has respecting the whereabouts and circumstances of the respondent and, on request by the Attorney General, a proper officer of the court that made the order or the claimant, shall send to the court or person indicated in the request,

Transmission
of documents
by court
where re-
spondent
leaves
Ontario

- (a) three certified copies of the order as filed with the court in Ontario; and
- (b) a sworn certificate of arrears.

19. The Lieutenant Governor in Council may, where satisfied that laws are or will be in effect in a state for the reciprocal enforcement of orders made in Ontario on a basis substantially similar to this Act, by regulation, designate that state to be a reciprocating state.

Regulations

20. This Act does not impair any other remedy available to a claimant or another person, Ontario, a province, a state or a political subdivision or official agency of Ontario, a province or a state.

Saving

21. This Act applies to orders, whether provisional, confirmation, final or registered, notwithstanding that they were made or registered before this Act comes into force.

Application
to past orders

22. The *Reciprocal Enforcement of Maintenance Orders Act*, being chapter 433 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

23. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

24. The short title of this Act is the *Reciprocal Enforcement of Maintenance Orders Act, 1982*.

Short title

BILL 1

An Act to revise the
Reciprocal Enforcement of
Maintenance Orders Act

1st Reading

March 9th, 1982

2nd Reading

June 11th, 1982

3rd Reading

June 15th, 1982

THE HON. R. MCMURTRY
Attorney General

3
BILL 2

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to amend the Surrogate Courts Act

THE HON. R. MCMURTRY
Attorney General

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The amendment would permit matters in a surrogate court in which the office of judge is temporarily vacant to be dealt with by a surrogate court judge outside the county. The amendment is parallel to the provision applying to county court judges under section 17 of the *County Judges Act*.

BILL 2

1982

An Act to amend the Surrogate Courts Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 11 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: ^{s. 11, amended}

(3) A judge appointed for the surrogate court of one or more counties who is a judge of a county or district court, with the approval of the Chief Judge of the County and District Courts, may exercise the powers and perform the duties of a surrogate court judge under subsection (1), notwithstanding that he is not present in the county. ^{Idem}

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>
3. The short title of this Act is the *Surrogate Courts Amendment Act*, ^{Short title} 1982.

An Act to amend the Surrogate Courts Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

BILL 2

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Surrogate Courts Act

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 2

1982

An Act to amend the Surrogate Courts Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 11 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, is amended by adding thereto<sup>s. 11,
amended</sup> the following subsection:

(3) A judge appointed for the surrogate court of one or more^{Idem} counties who is a judge of a county or district court, with the approval of the Chief Judge of the County and District Courts, may exercise the powers and perform the duties of a surrogate court judge under subsection (1), notwithstanding that he is not present in the county.

2. This Act comes into force on the day it receives Royal Assent.<sup>Commence-
ment</sup>
3. The short title of this Act is the *Surrogate Courts Amendment Act*,^{Short title} 1982.

BILL 2

An Act to amend the Surrogate Courts Act

1st Reading

March 11th, 1982

2nd Reading

June 11th, 1982

3rd Reading

June 15th, 1982

THE HON. R. MCMURTRY
Attorney General

A20N
B
-656

Government
Publication

BILL 3

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Charities Accounting Act

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

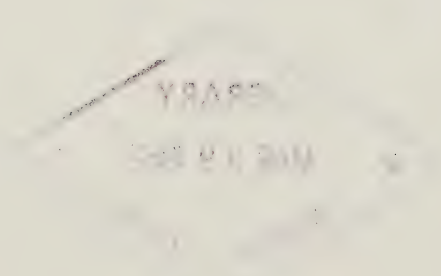
EXPLANATORY NOTE

The Bill is complementary to a Bill to repeal the *Mortmain and Charitable Uses Act*.

The new section 6*b* provides for the sale by the Public Trustee of land that is given or held for a charitable purpose but ceases to be in actual use and occupation for the charitable purpose.

The new section 6*c* preserves the authority for certain public bodies to receive and administer property in trust for a charitable purpose.

The new section 6*d* retains the procedure contained in section 14 of the *Mortmain and Charitable Uses Act* for taking complaints about the execution of a charitable trust to the Supreme Court.



BILL 3

1982

An Act to amend the Charities Accounting Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Charities Accounting Act*, being chapter 65 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

ss. 6a-6d,
enacted

6a. In sections 6b, 6c and 6d,

Interpre-
tation

(a) "charitable purpose" means,

(i) the relief of poverty,

(ii) education,

(iii) the advancement of religion, and

(iv) any purpose beneficial to the community, not falling under subclause (i), (ii) or (iii);

(b) "land" includes an interest in land.

6b.—(1) A person who holds land for a charitable purpose shall hold the land only for the purpose of actual use and occupation of the land for the charitable purpose.

Actual use
and occupation
of land for
charitable
purpose

(2) Where in the opinion of the Public Trustee, land held for a charitable purpose,

Vesting in
Public
Trustee

(a) has not been actually used and occupied for the charitable purpose for a period of three years;

(b) is not required for actual use and occupation for the charitable purpose; and

- (c) will not be required for actual use and occupation for the charitable purpose in the immediate future,

the Public Trustee may vest the land in the Public Trustee by registering a notice in the land registry office to that effect and stating that he intends to sell the land, and shall, where practicable, deliver a copy of the notice to the person who held the land for the charitable purpose.

Sale by
Public
Trustee

- (3) Where land vests in the Public Trustee under subsection (2), the Public Trustee shall cause the land to be sold with all reasonable speed and shall apply the proceeds of sale, less his reasonable expenses in respect of the sale, to the charitable purpose.

Computation
of time

- (4) Where land has been granted or devised in reversion or remainder for a charitable purpose, the three year period referred to in clause (2) (a) shall be calculated from the date on which the interest of the person to whom the land had been so devised or granted becomes an interest in possession.

Order to
revest and
sanctioning
retention
for period

- (5) If, upon application to the Supreme Court by any person having an interest, the court is satisfied that the land,

- (a) has been actually used and occupied for the charitable purpose within the preceding three years;
- (b) is required for actual use and occupation for the charitable purpose; or
- (c) will be required for actual use and occupation for the charitable purpose in the immediate future,

the court may make an order revesting in a charity land that has vested in the Public Trustee under subsection (2) and sanctioning retention of the land by the charity for a period that is specified in the order.

Renewal
of period

- (6) Where in an application under subsection (5), the court finds that land is not required for actual use and occupation for the charitable purpose but will be required for actual use and occupation in the immediate future, the period specified in the order under subsection (5) shall not exceed three years, but on application by any person having an interest, the court may make an order extending the period for a further period not exceeding three years.

Effect of
sanction of
retention

- (7) The Public Trustee shall not cause the land to vest in him under subsection (1) during any period for which the retention is sanctioned by an order under subsection (5) or (6).

6c.—(1) Subject to section 6b, a municipal corporation or local board thereof, a university or a public hospital may receive, hold and enjoy real or personal property devised, bequeathed or granted to it for a charitable purpose, upon the terms expressed in the devise, bequest or grant.

Authority for certain public bodies to receive property for charitable purposes

(2) A municipal corporation or local board thereof, university or public hospital holding property under subsection (1) may enter into an agreement with the person devising, bequeathing or granting the property for the holding, management, administration or disposition of the property.

Agreement re administration

(3) This section applies notwithstanding that the devise, bequest or grant was made before it was authorized by this section.

Application of section

6d.—(1) Where any two or more persons allege a breach of a trust created for a charitable purpose or seek the direction of the court for the administration of a trust for a charitable purpose, they may apply to the Supreme Court and the court may hear the application and make such order as it considers just for the carrying out of the trust under the law.

Application for order re carrying out trust

(2) An application under subsection (1) shall be upon notice to the Public Trustee who may appear and be represented by counsel at the hearing.

Notice to Public Trustee

(3) Where the court is of the opinion that the public interest can be served by an investigation of the matter alleged in the application, the court may make an order directing the Public Trustee to make such investigation as the Public Trustee considers proper in the circumstances and report in writing thereon to the court and the Attorney General.

Investigation by Public Trustee

(4) In making an investigation directed under subsection (3), the Public Trustee has and may exercise any of the powers conferred on him by this Act and any of the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of Public Trustee
R.S.O. 1980, c. 411

2. This Act comes into force on the day it receives Royal Assent.

Commencement

3. The short title of this Act is the *Charities Accounting Amendment Act, 1982*.

Short title

BILL 3

An Act to amend the
Charities Accounting Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURRY
Attorney General

(Government Bill)

BILL 3

Government Bill

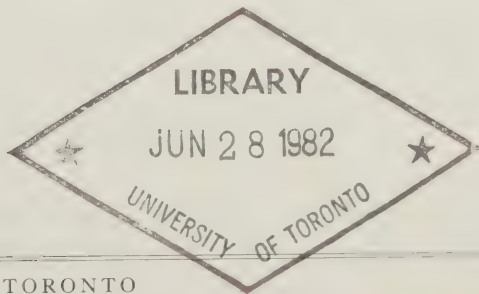
2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Charities Accounting Act

THE HON. R. MCMURTRY
Attorney General

(Reprinted as amended by the Committee of the Whole House)



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill is complementary to a Bill to repeal the *Mortmain and Charitable Uses Act*.

The new section 6*b* provides for the sale by the Public Trustee of land that is given or held for a charitable purpose but ceases to be in actual use or occupation for the charitable purpose.

The new section 6*c* preserves the authority for certain public bodies to receive and administer property in trust for a charitable purpose.

The new section 6*d* retains the procedure contained in section 14 of the *Mortmain and Charitable Uses Act* for taking complaints about the execution of a charitable trust to the Supreme Court.



BILL 3

1982

An Act to amend the Charities Accounting Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Charities Accounting Act*, being chapter 65 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections: ss. 6a-6d,
enacted

6a. In sections 6b, 6c and 6d, Interpre-
tation

(a) "charitable purpose" means,

- (i) the relief of poverty,
- (ii) education,
- (iii) the advancement of religion, and
- (iv) any purpose beneficial to the community, not falling under subclause (i), (ii) or (iii);

(b) "land" includes an interest in land.

6b.—(1) A person who holds land for a charitable purpose shall hold the land only for the purpose of actual use or occupation of the land for the charitable purpose. Actual use
or occupation
of land for
charitable
purpose

(2) Where in the opinion of the Public Trustee, land held for a charitable purpose, Vesting in
Public
Trustee

(a) has not been actually used or occupied for the charitable purpose for a period of three years;

(b) is not required for actual use or occupation for the charitable purpose; and

- (c) will not be required for actual use or occupation for the charitable purpose in the immediate future,

the Public Trustee may vest the land in the Public Trustee by registering a notice in the land registry office to that effect and stating that he intends to sell the land, and shall, where practicable, deliver a copy of the notice to the person who held the land for the charitable purpose.

Sale by
Public
Trustee

- (3) Where land vests in the Public Trustee under subsection (2), the Public Trustee shall cause the land to be sold with all reasonable speed and shall apply the proceeds of sale, less his reasonable expenses in respect of the sale, to the charitable purpose.

Computation
of time

- (4) Where land has been granted or devised in reversion or remainder for a charitable purpose, the three year period referred to in clause (2) (a) shall be calculated from the date on which the interest of the person to whom the land had been so devised or granted becomes an interest in possession.

Order to
revest and
sanctioning
retention
for period

- (5) If, upon application to the Supreme Court by any person having an interest, the court is satisfied that the land,

- (a) has been actually used or occupied for the charitable purpose within the preceding three years;
- (b) is required for actual use or occupation for the charitable purpose; or
- (c) will be required for actual use or occupation for the charitable purpose in the immediate future,

the court may make an order revesting in a charity land that has vested in the Public Trustee under subsection (2) and sanctioning retention of the land by the charity for a period that is specified in the order.

Renewal
of period

- (6) Where in an application under subsection (5), the court finds that land is not required for actual use or occupation for the charitable purpose but will be required for actual use or occupation in the immediate future, the period specified in the order under subsection (5) shall not exceed three years, but on application by any person having an interest, the court may make an order extending the period for a further period not exceeding three years.

Effect of
sanction of
retention

- (7) The Public Trustee shall not cause the land to vest in him under subsection (1) during any period for which the retention is sanctioned by an order under subsection (5) or (6).

6c.—(1) Subject to section 6b, a municipal corporation or local board thereof, a university or a public hospital may receive, hold and enjoy real or personal property devised, bequeathed or granted to it for a charitable purpose, upon the terms expressed in the devise, bequest or grant.

Authority for certain public bodies to receive property for charitable purposes

(2) A municipal corporation or local board thereof, university or public hospital holding property under subsection (1) may enter into an agreement with the person devising, bequeathing or granting the property for the holding, management, administration or disposition of the property.

Agreement re administration

(3) This section applies notwithstanding that the devise, bequest or grant was made before it was authorized by this section.

Application of section

6d.—(1) Where any two or more persons allege a breach of a trust created for a charitable purpose or seek the direction of the court for the administration of a trust for a charitable purpose, they may apply to the Supreme Court and the court may hear the application and make such order as it considers just for the carrying out of the trust under the law.

Application for order re carrying out trust

(2) An application under subsection (1) shall be upon notice to the Public Trustee who may appear and be represented by counsel at the hearing.

Notice to Public Trustee

(3) Where the court is of the opinion that the public interest can be served by an investigation of the matter alleged in the application, the court may make an order directing the Public Trustee to make such investigation as the Public Trustee considers proper in the circumstances and report in writing thereon to the court and the Attorney General.

Investigation by Public Trustee

(4) In making an investigation directed under subsection (3), the Public Trustee has and may exercise any of the powers conferred on him by this Act and any of the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of Public Trustee

R.S.O. 1980, c. 411

2. This Act comes into force on the day it receives Royal Assent.

Commencement

3. The short title of this Act is the *Charities Accounting Amendment Act, 1982*.

Short title

An Act to amend the
Charities Accounting Act

1st Reading

March 11th, 1982

2nd Reading

June 11th, 1982

3rd Reading

THE HON. R. MCMURTRY
Attorney General

*(Reprinted as amended by the
Committee of the Whole House)*

129N
B56
BILL 3

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Charities Accounting Act

THE HON. R. MCMURTRY
Attorney General



BILL 3

1982

An Act to amend the Charities Accounting Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Charities Accounting Act*, being chapter 65 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections: ss. 6a-6d,
enacted

6a. In sections 6b, 6c and 6d, Interpre-
tation

(a) "charitable purpose" means,

- (i) the relief of poverty,
- (ii) education,
- (iii) the advancement of religion, and
- (iv) any purpose beneficial to the community, not falling under subclause (i), (ii) or (iii);

(b) "land" includes an interest in land.

6b.—(1) A person who holds land for a charitable purpose shall hold the land only for the purpose of actual use or occupation of the land for the charitable purpose. Actual use
or occupation
of land for
charitable
purpose

(2) Where in the opinion of the Public Trustee, land held for a charitable purpose, Vesting in
Public
Trustee

(a) has not been actually used or occupied for the charitable purpose for a period of three years;

(b) is not required for actual use or occupation for the charitable purpose; and

- (c) will not be required for actual use or occupation for the charitable purpose in the immediate future,

the Public Trustee may vest the land in the Public Trustee by registering a notice in the land registry office to that effect and stating that he intends to sell the land, and shall, where practicable, deliver a copy of the notice to the person who held the land for the charitable purpose.

Sale by
Public
Trustee

(3) Where land vests in the Public Trustee under subsection (2), the Public Trustee shall cause the land to be sold with all reasonable speed and shall apply the proceeds of sale, less his reasonable expenses in respect of the sale, to the charitable purpose.

Computation
of time

(4) Where land has been granted or devised in reversion or remainder for a charitable purpose, the three year period referred to in clause (2) (a) shall be calculated from the date on which the interest of the person to whom the land had been so devised or granted becomes an interest in possession.

Order to
revest and
sanctioning
retention
for period

(5) If, upon application to the Supreme Court by any person having an interest, the court is satisfied that the land,

- (a) has been actually used or occupied for the charitable purpose within the preceding three years;
- (b) is required for actual use or occupation for the charitable purpose; or
- (c) will be required for actual use or occupation for the charitable purpose in the immediate future,

the court may make an order revesting in a charity land that has vested in the Public Trustee under subsection (2) and sanctioning retention of the land by the charity for a period that is specified in the order.

Renewal
of period

(6) Where in an application under subsection (5), the court finds that land is not required for actual use or occupation for the charitable purpose but will be required for actual use or occupation in the immediate future, the period specified in the order under subsection (5) shall not exceed three years, but on application by any person having an interest, the court may make an order extending the period for a further period not exceeding three years.

Effect of
sanction of
retention

(7) The Public Trustee shall not cause the land to vest in him under subsection (1) during any period for which the retention is sanctioned by an order under subsection (5) or (6).

6c.—(1) Subject to section 6b, a municipal corporation or local board thereof, a university or a public hospital may receive, hold and enjoy real or personal property devised, bequeathed or granted to it for a charitable purpose, upon the terms expressed in the devise, bequest or grant.

Authority for certain public bodies to receive property for charitable purposes

(2) A municipal corporation or local board thereof, university or public hospital holding property under subsection (1) may enter into an agreement with the person devising, bequeathing or granting the property for the holding, management, administration or disposition of the property.

Agreement re administration

(3) This section applies notwithstanding that the devise, bequest or grant was made before it was authorized by this section.

Application of section

6d.—(1) Where any two or more persons allege a breach of a trust created for a charitable purpose or seek the direction of the court for the administration of a trust for a charitable purpose, they may apply to the Supreme Court and the court may hear the application and make such order as it considers just for the carrying out of the trust under the law.

Application for order re carrying out trust

(2) An application under subsection (1) shall be upon notice to the Public Trustee who may appear and be represented by counsel at the hearing.

Notice to Public Trustee

(3) Where the court is of the opinion that the public interest can be served by an investigation of the matter alleged in the application, the court may make an order directing the Public Trustee to make such investigation as the Public Trustee considers proper in the circumstances and report in writing thereon to the court and the Attorney General.

Investigation by Public Trustee

(4) In making an investigation directed under subsection (3), the Public Trustee has and may exercise any of the powers conferred on him by this Act and any of the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of Public Trustee

R.S.O. 1980, c. 411

2. This Act comes into force on the day it receives Royal Assent.

Commencement

3. The short title of this Act is the *Charities Accounting Amendment Act, 1982*.

Short title

An Act to amend the
Charities Accounting Act

1st Reading

March 11th, 1982

2nd Reading

June 11th, 1982

3rd Reading

June 15th, 1982

THE HON. R. MCMURTRY
Attorney General

A20N

B56

Government
Public

BILL 4

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to repeal the
Mortmain and Charitable Uses Act**

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill abolishes the requirement that a corporation hold a licence in mortmain in order to hold land. Certain provisions of the repealed Act that apply to charitable trusts are preserved and rewritten in a Bill to amend the *Charities Accounting Act*.

YWA 1701

THE C. & H. M.

BILL 4

1982

An Act to repeal the Mortmain and Charitable Uses Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) The *Mortmain and Charitable Uses Act*, being chapter 297 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

- (2) Where land has vested in the Public Trustee under subsection 7 (2) or subsection 10 (2) of the said Act before this Act comes into force, the land shall be deemed never to have vested in the Public Trustee unless, Divesting of forfeitures not acted upon by Public Trustee
 - (a) the Public Trustee has conveyed the land to the trustees for the charity or any other person; or
 - (b) the Public Trustee has registered a notice vesting the land in him under section 6*b* of the *Charities Accounting Act*. R.S.O. 1980, c. 65

2. Section 4 of *An Act respecting Real Property*, being chapter 330 of the Revised Statutes of Ontario, 1897, and contained in Appendix A to the Revised Statutes of Ontario, 1980, is amended by striking out the first sentence thereof and by striking out “this and” in the sixth line. R.S.O. 1897, c. 330, s. 4, amended

3. This Act comes into force on the day it receives Royal Assent. Commence-ment

4. The short title of this Act is the *Mortmain and Charitable Uses Repeal Act, 1982*. Short title

BILL 4

An Act to repeal the
Mortmain and Charitable Uses Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

3
BILL 4

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982 1

LEGISLATIVE ASSEMBLY
2

An Act to repeal the
Mortmain and Charitable Uses Act

THE HON. R. MCMURTRY
Attorney General



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 4

1982

An Act to repeal the Mortmain and Charitable Uses Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) The *Mortmain and Charitable Uses Act*, being chapter 297 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

- (2) Where land has vested in the Public Trustee under subsection 7 (2) or subsection 10 (2) of the said Act before this Act comes into force, the land shall be deemed never to have vested in the Public Trustee unless, Divesting of forfeitures not acted upon by Public Trustee
 - (a) the Public Trustee has conveyed the land to the trustees for the charity or any other person; or
 - (b) the Public Trustee has registered a notice vesting the land in him under section 6b of the *Charities Accounting Act*. R.S.O. 1980, c. 65

2. Section 4 of *An Act respecting Real Property*, being chapter 330 of the Revised Statutes of Ontario, 1897, and contained in Appendix A to the Revised Statutes of Ontario, 1980, is amended by striking out the first sentence thereof and by striking out “this and” in the sixth line. R.S.O. 1897, c. 330, s. 4, amended

3. This Act comes into force on the day it receives Royal Assent. Commence-ment

4. The short title of this Act is the *Mortmain and Charitable Uses Repeal Act, 1982*. Short title

An Act to repeal the
Mortmain and Charitable Uses Act

1st Reading

March 11th, 1982

2nd Reading

June 11th, 1982

3rd Reading

June 15th, 1982

THE HON. R. MCMURTRY
Attorney General

A27N
2
356

Government
Publication

BILL 5

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Corporations Information Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The Act currently provides that where a corporation is carrying on business under a name other than its corporate name, the word "Limited", "Incorporated" or "Corporation" shall not appear as the last word of that name. The amendment has the effect of prohibiting the use of any of the specified words anywhere in the name and coincides with a similar prohibition in the *Business Corporations Act*.

SECTION 2.—Subsection 1. The subsection being repealed refers to the holding of a licence under the *Mortmain and Charitable Uses Act*. The repeal is ancillary to the proposed repeal of the provisions in that Act relating to mortmain. (Bill 202).

Subsection 2. The amendment to subsection 3 (7) of the Act clarifies the intent of the section, that a corporation need only retain and provide information as to its current directors and officers. Out-of-date notices are on file with the Companies Division and are available for public inspection.

BILL 5

1982

An Act to amend the Corporations Information Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 (3) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, is amended by striking out "as the last word thereof" in the fifth line. s. 2 (3),
amended
- 2.—(1) Subsection 3 (6) of the said Act is repealed. s. 3 (6),
repealed
 - (2) Subsection 3 (7) of the said Act is amended by striking out "all notices submitted" in the first and second lines and inserting in lieu thereof "the last notice filed". s. 3 (7),
amended
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Corporations Information Amendment Act, 1982*. Short title

BILL 5

An Act to amend the
Corporations Information Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 5

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Corporations Information Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 5

1982

An Act to amend the Corporations Information Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 (3) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, is amended by striking out "as the last word thereof" in the fifth line. s. 2 (3),
amended
- 2.—(1) Subsection 3 (6) of the said Act is repealed. s. 3 (6),
repealed
 - (2) Subsection 3 (7) of the said Act is amended by striking out "all notices submitted" in the first and second lines and inserting in lieu thereof "the last notice filed". s. 3 (7),
amended
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Corporations Information Amendment Act, 1982*. Short title

BILL 5

An Act to amend the
Corporations Information Act

1st Reading

March 11th, 1982

2nd Reading

June 28th, 1982

3rd Reading

June 29th, 1982

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

27N

B56

Government
Publication

BILL 6

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to revise the Business Corporations Act



THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Administration of Justice Committee)

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

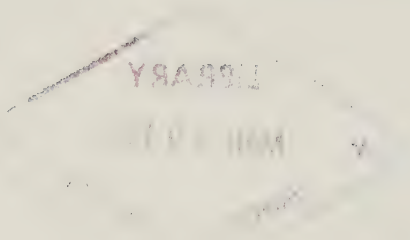


TABLE OF CONTENTS

	SEC.	PAGE
PART I — Definitions and Application	1, 2	1
PART II — Incorporation	3-21	9
PART III — Corporate Finance	22-44	18
PART IV — Sale of Restricted Shares	45	34
PART V — Indenture Trustees	46-52	35
PART VI — Investment Securities	53-91	40
PART VII — Shareholders	92-108	65
PART VIII — Proxies	109-114	76
PART IX — Directors and Officers	115-137	79
PART X — Insider Liability	138	97
PART XI — Books and Records	139-147	99
PART XII — Auditors and Financial Statements	148-159	105
PART XIII — Investigation	160-166	112
PART XIV — Fundamental Changes	167-185	115
PART XV — Compulsory Acquisitions	186-189	137
PART XVI — Liquidation and Dissolution	190-243	149
PART XVII — Remedies, Offences and Penalties	244-260	167
PART XVIII — General	261-279	177

EXPLANATORY NOTES

The Bill restates and revises the law as it applies to business corporations. The Bill is designed to effect a measure of uniformity between Ontario corporate legislation and legislation passed by the federal and other provincial jurisdictions.

Among the principal features of the Bill are the following:

1. The administrative functions under the Act are given to the Director rather than to the Minister.

The Director is appointed by the Minister.

2. A corporation may be incorporated with a name in English, French or in a combined English and French form and the English or French word for "Limited", "Incorporated" or "Corporation" or the corresponding abbreviations, "Ltée", "Inc." or "Corp." shall be part of the name (s. 10).
3. The statutory list of ancillary corporate powers and the statutory requirement to provide corporate objects have been removed from the Act and in lieu thereof corporations are given the powers of a natural person (s. 15).
4. The concept of constructive notice has been abolished so that no person is deemed to have knowledge of the contents of documents concerning corporations by reason only that the documents have been filed (s. 18).
5. The common law indoor management rule has been codified. This rule permits third parties to rely upon officers, directors or employees having the authority to bind the company where their actions would imply that they have such authority (s. 19).
6. The concept of par value shares has been removed (s. 22).
7. An offering corporation may restrict the issue, transfer, or ownership of its shares if a specified level of ownership is necessary to assist the corporation to hold registration as a securities dealer, or if a specified level of Canadian ownership is necessary to assist the corporation to qualify to receive licences or benefits under any Canadian statute which may be prescribed (s. 42).
8. The sale of restricted shares is permitted where the restrictions are attached in order to qualify the corporation for special grants, licences, etc. (s. 45).
9. An opportunity is given to shareholders to have proposals put before shareholders' meetings (s. 99).
10. An opportunity by way of a unanimous shareholder agreement is provided to shareholders to assume the responsibilities of directors and manage the corporation (s. 108).
11. At least one-third of the directors of an offering corporation shall not be officers or employees of the corporation or of any of its affiliates (s. 115).
12. Provision is made for a floating number of directors with the minimum and maximum numbers being set (s. 124).

13. Provision is made to permit a corporation, a shareholder or the Commission in the case of an offering corporation, to apply to the court for an order setting aside a material contract and requiring a director or officer to account to the corporation where he did not disclose his interest therein as required and thereby made a profit or gain (s. 132).
14. Provision is made to allow corporations to purchase insurance to protect a director where he failed to exercise a proper standard of care (s. 136).
15. Provision has been made for liability of insiders of non-offering corporations (s. 138).
16. Provision is made to require retention of accounting records for only six years from the end of the period to which they relate (s. 140).
17. A non-offering corporation is exempt from the audit requirements of the Act in a financial year if all of the shareholders consent and if its assets do not exceed \$2,500,000 and its sales \$5,000,000 or if it has been exempted by the Director following application and hearing (s. 148).
18. The auditor's report is required to be made in accordance with generally accepted auditing standards (s. 152).
19. Accounting rules for financial statements have been removed from the Act and will be set out in the regulations. Statements will be required to be reported and prepared in accordance with generally accepted accounting principles (s. 154).
20. Short form of amalgamation with affiliates has been provided for (s. 176).
21. The rights of dissenting shareholders to have their shares purchased by the corporation have been expanded to offering corporations (s. 184).
22. Provision is made for expropriation of the shares of a minority of an offering corporation where 90 per cent of non-insiders accept a take over bid or 90 per cent of the holders of a class of security accept an issuer bid (s. 187).
23. Provision is made so that where 90 per cent of a class of shares of an offering corporation has been acquired by an affiliate, a holder of any of the remaining 10 per cent may force the purchase of his shares (s. 188).
24. Provision has been made to protect minority shareholders in "going private" transactions in public offering companies subject to exemption on application to the Commission (s. 189).
25. For the purpose of a hearing to determine whether sufficient cause exists for cancellation of a certificate of incorporation and dissolution of a corporation, the term "sufficient cause" is defined in part (s. 239).
26. The time within which an application for revival may be made when a corporation has been dissolved for default in complying with the *Corporations Tax Act*, or failure to comply with the financial disclosure requirements of the *Securities Act* has been increased from two to five years (s. 240).
27. The existing provision for representative action on behalf of the corporation has been maintained but a new provision setting out in some detail the type of court orders that may be made has been added (s. 245).

28. An oppression remedy has been provided for minority shareholders, creditors and others on application to the court by a complainant, the Director and, in the case of an offering corporation, the Commission (s. 247).
29. Provision has also been made for interim injunctive relief on *ex parte* application (s. 253).
30. The new Act will apply to existing Ontario corporations automatically. The transition section provides that any valid corporate provisions that do not conform to the new Act within one year after it comes into force are deemed to be amended to the extent necessary to bring the terms of such provisions into conformity with the new Act (s. 275).

BILL 6

1982

An Act to revise the Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DEFINITIONS AND APPLICATION

1.—(1) In this Act,

Interpre-
tation

1. “affairs” means the relationships among a corporation, its affiliates and the shareholders, directors and officers of such bodies corporate but does not include the business carried on by such bodies corporate;
2. “affiliate” means an affiliated body corporate within the meaning of subsection (4);
3. “articles” means the original or restated articles of incorporation, articles of amendment, articles of amalgamation, articles of arrangement, articles of continuance, articles of dissolution, articles of reorganization, articles of revival, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated;
4. “associate”, where used to indicate a relationship with any person, means,
 - i. any body corporate of which the person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding,
 - ii. any partner of that person,

- iii. any trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity,
- iv. any relative of the person, including his spouse, where the relative has the same home as the person, or
- v. any relative of the spouse of the person where the relative has the same home as the person:

- 5. "auditor" includes a partnership of auditors;
- 6. "beneficial interest" or "beneficial ownership" includes ownership through a trustee, legal representative, agent or other intermediary;
- 7. "body corporate" means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies;
- 8. "certified copy" means,
 - i. in relation to a document of a corporation, a copy of the document certified to be a true copy by an officer thereof,
 - ii. in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
 - iii. in relation to a document in the custody of the Director, a copy of the document certified to be a true copy by the Director and signed by the Director or by such officer of the Ministry as is designated by the regulations;
- 9. "Commission" means the Ontario Securities Commission;
- 10. "corporation" means a body corporate with share capital to which this Act applies;
- 11. "corporation number" means the number assigned by the Director to a corporation in accordance with subsection 8 (1) and "number" in relation to a corporation means the corporation number of that corporation;
- 12. "court" means the High Court of Justice;

13. "day" means a clear day and a period of days shall be deemed to commence the day following the event that began the period and shall be deemed to terminate at midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate at midnight of the day next following that is not a Sunday or holiday;
14. "debt obligation" means a bond, debenture, note or other similar obligation or guarantee of such an obligation of a body corporate, whether secured or unsecured;
15. "Director" means the Director appointed under section 276;
16. "director" means a person occupying the position of director of a corporation by whatever name called and "directors" and "board of directors" include a single director;
17. "endorse" includes imprinting a stamp on the face of articles or other document sent to the Director;
18. "financial statement" means a financial statement referred to in section 153;
19. "incorporator" means a person who signs articles of incorporation;
20. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal representative;
21. "interim financial statement" means a financial statement referred to in section 159;
22. "liability" includes a debt of a corporation arising under section 36, subsection 184 (27) or clause 247 (3) (f) or (g);
23. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
24. "Ministry" means the Ministry of the Minister;
25. "non-resident corporation" means a corporation incorporated in Canada before the 27th day of April, 1965, and that is not deemed to be resident in Canada for the

1970-71,
c. 63 (Can.)

purposes of the *Income Tax Act* (Canada) by subsection 250 (4) of that Act;

26. "number name" means the name of a corporation that consists only of its corporation number followed by the word "Ontario" and one of the words or abbreviations provided for in subsection 10 (1);
27. "offering corporation" means a corporation that is offering its securities to the public within the meaning of subsection (6) and that is not the subject of an order of the Commission deeming it to have ceased to be offering its securities to the public;
28. "officer" means an officer designated under section 133 and includes the chairman of the board of directors, a vice-chairman of the board of directors, the president, a vice-president, the secretary, an assistant secretary, the treasurer, an assistant treasurer and the general manager of a corporation, and any other individual designated an officer of a corporation by by-law or by resolution of the directors or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office;
29. "ordinary resolution" means a resolution that is submitted to a meeting of the shareholders of a corporation and passed, with or without amendment, at the meeting by at least a majority of the votes cast;
30. "person" includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;
31. "personal representative", where used with reference to holding shares in that capacity, means an executor, administrator, guardian, tutor, trustee, receiver or liquidator or the committee of or curator to a mentally incompetent person;
32. "prescribed" means prescribed by the regulations;
33. "redeemable share" means a share issued by a corporation,
 - i. that the corporation may purchase or redeem upon the demand of the corporation, or

- ii. that the corporation is required by its articles to purchase or redeem at a specified time or otherwise upon the demand of a shareholder;
- 34. “registered office” means the office of a corporation located at the address specified in its articles or in the notice most recently filed by the corporation under subsection 14 (3);
- 35. “regulations” means the regulations made under this Act;
- 36. “related person”, where used to indicate a relationship with any person, means,
 - i. any spouse, son or daughter of that person,
 - ii. any relative of the person or of his spouse, other than a relative referred to in subparagraph i, who has the same home as the person, or
 - iii. any body corporate of which the person and any of the persons referred to in subparagraph i or ii or the partner or employer of the person, either alone or in combination, beneficially owns, directly or indirectly, voting securities carrying more than 50 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding;
- 37. “resident Canadian” means an individual who is,
 - i. a Canadian citizen ordinarily resident in Canada,
 - ii. a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or
 - iii. a permanent resident within the meaning of the *Immigration Act, 1976* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he first became eligible to apply for Canadian citizenship;
- 38. “security” means a share of any class or series of shares or a debt obligation of a body corporate and includes a certificate evidencing such a share or debt obligation;

1976-77,
c. 52 (Can.)

39. "security interest" means an interest in or charge upon the property of a body corporate by way of mortgage, hypothec, pledge or otherwise, to secure payment of a debt or performance of any other obligation of the body corporate;
40. "send" includes deliver or mail;
41. "senior officer" means,
- i. the chairman of the board of directors, a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office, and
 - ii. each of the five highest paid employees of a corporation, including any individual referred to in subparagraph i;
42. "series", in relation to shares, means a division of a class of shares;
43. "special resolution" means a resolution that is,
- i. submitted to a special meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds of the votes cast, or
 - ii. consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or his attorney authorized in writing;
44. "unanimous shareholder agreement" means an agreement described in subsection 108 (2) or a declaration of a shareholder described in subsection 108 (3);
45. "voting security" means any security other than a debt obligation of a body corporate carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

46. "warrant" means any certificate or other document issued by a corporation as evidence of conversion privileges or options or rights to acquire securities of the corporation. R.S.O. 1980, c. 54, s. 1 (1).

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if, Interpretation:
subsidiary
body
corporate

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary.

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary. Holding
body
corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person. R.S.O. 1980, c. 54, s. 1 (2-4). Affiliated
body
corporate

(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if, Control

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate. R.S.O. 1980, c. 54, s. 1 (5), *amended*.

(6) For the purposes of this Act, a corporation is offering its securities to the public only where, Offering
securities
to public

R.S.O. 1980,
c. 466

- (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid or issuer bid circular has been filed under the *Securities Act* or any predecessor thereof, or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or
- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a corporation that has fewer than fifteen security holders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the corporation shall be deemed to have ceased to be offering its securities to the public. R.S.O. 1980, c. 54, s. 1 (8).

Execution of
documents

(7) Any articles, notice, resolution, requisition, statement or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form each of which is executed by one or more of such persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, shall be deemed to constitute one document for the purposes of this Act. *New.*

Application

2.—(1) This Act, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1980, c. 54, s. 2 (1), *amended*. R.S.O. 1981, c. 249

(2) Notwithstanding *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 167 (5), this Act applies to a corporation that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. *New*. Idem

(3) This Act does not apply to a corporation that, Idem

(a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature; R.S.O. 1980, c. 95

(b) is a corporation to which the *Co-operative Corporations Act* applies; R.S.O. 1980, c. 91

(c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*;

(d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies. R.S.O. 1980, c. 54, s. 2 (2), *amended*. R.S.O. 1980, c. 102

PART II

INCORPORATION

3.—(1) Where the practice of a profession is governed by an Act, a corporation may practise the profession only if that Act expressly permits the practice of the profession by a corporation and subject to the provisions of such Act. R.S.O. 1980, c. 54, s. 3 (3), *amended*. Professions

(2) A corporation may be incorporated under this Act with its powers restricted by its articles to lending and investing money on mortgage of real estate or otherwise, or with its powers restricted by its articles to accepting and executing the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accepting the duty of and acting generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of the *Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the corporation, shall be limited by its articles to five, and no such corporation shall issue debt obligations except to its shareholders, or borrow money on the security of its property except Incorporation

from its shareholders, or receive money on deposit or offer its securities to the public. R.S.O. 1980, c. 54, s. 3 (2), *amended*.

Articles of
incorporation

4.—(1) One or more individuals or bodies corporate or any combination thereof may incorporate a corporation by signing articles of incorporation and complying with section 6.

Idem

(2) Subsection (1) does not apply to an individual who,

- (a) is less than eighteen years of age;
- (b) is of unsound mind and has been so found by a court in Canada or elsewhere; or
- (c) has the status of bankrupt. R.S.O. 1980, c. 54, s. 4 (1), *amended*.

Contents of
articles

5.—(1) Articles of incorporation shall follow the prescribed form and shall set out, in respect of the proposed corporation,

- (a) the name of the corporation;
- (b) the municipality or geographic township within Ontario and the address including street name and number, if any, where the registered office is to be located;
- (c) the classes and any maximum number of shares that the corporation is authorized to issue, and
 - (i) if there are to be two or more classes of shares, the rights, privileges, restrictions and conditions attaching to each class of shares, and
 - (ii) if a class of shares may be issued in series, the authority given to the directors to fix the number of shares in, and to determine the designation of, and the rights, privileges, restrictions and conditions attaching to the shares of, each series;
- (d) if the issue, transfer or ownership of shares of the corporation is to be restricted, a statement to that effect and a statement as to the nature of the restriction;
- (e) the number of directors or, subject to section 120, the minimum and maximum number of directors, and, for each director,
 - (i) the surname of the director,
 - (ii) the first or other given name by which the director is commonly known,

- (iii) the first letters of the other given names, if any, of the director,
 - (iv) the address, including the street name and number, if any, of the director's residence, and
 - (v) whether the director is a resident Canadian;
- (f) any restrictions on the business that the corporation may carry on or on the powers that the corporation may exercise;
- (g) for each incorporator who is an individual,
- (i) the surname of the individual,
 - (ii) the first or other given name by which the individual is commonly known,
 - (iii) the first letters of the other given names, if any, of the individual, and
 - (iv) the address including the street name and number, if any, of the individual's residence,
- and for each incorporator that is a body corporate,
- (v) the corporate name, and
 - (vi) the location of its registered office or principal place of business, including the street name and number, if any; and
- (h) any other matter required by this Act or the regulations to be set out in the articles. R.S.O. 1980, c. 54, s. 4 (2), *amended*.

(2) If the articles name as first director an individual who is not an incorporator, his consent, in prescribed form, to act as a first director shall accompany the articles. Where consent required

(3) The articles may set out any provisions permitted by this Act or permitted by law to be set out in the by-laws of the corporation. Provisions in articles

(4) Subject to subsection (5), if a greater number of votes of directors or shareholders are required by the articles or a unanimous shareholder agreement than are required by this Act to effect any action, the provisions of the articles or of the unanimous shareholder agreement prevail. Where articles, etc., prevail

- Votes to remove director (5) The articles shall not require a greater number of votes of shareholders to remove a director than the number specified in section 122. *New.*
- Certificate of incorporation **6.** An incorporator shall send to the Director articles of incorporation and, upon receipt of the articles, the Director shall endorse thereon, in accordance with section 272, a certificate which shall constitute the certificate of incorporation. R.S.O. 1980, c. 54, s. 5 (2), *amended.*
- Certificate of incorporation **7.** A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate, except in a proceeding under section 239 to cancel the certificate for cause. R.S.O. 1980, c. 54, s. 5 (3).
- Assignment of number **8.—**(1) Every corporation shall be assigned a number by the Director and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate relating to the corporation endorsed or issued by the Director.
- Idem (2) Where no name is specified in the articles that are delivered to the Director, the corporation shall be assigned a number name.
- Idem (3) Where, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number or number name that is the same as the number or name of any other corporation previously assigned, the Director may, without holding a hearing, issue a certificate of amendment to the articles of the corporation changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly.
- Idem (4) Where for any reason the Director has endorsed a certificate on articles that sets out the corporation number incorrectly, the Director may substitute a corrected certificate that bears the date of the certificate it replaces.
- Idem (5) The file number that has been assigned to each corporation by the Minister prior to this section coming into force shall be deemed to be that corporation's number. R.S.O. 1980, c. 54, s. 6, *amended.*
- Name prohibition **9.—**(1) Subject to subsection (2), a corporation shall not have a name,
- (a) that contains a word or expression prohibited by the regulations;

(b) that is the same as or, except where a number name is proposed, similar to,

(i) the name of a known,

(A) body corporate,

(B) trust,

(C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies itself,

if the use of that name would be likely to deceive; or

(c) that does not meet the requirements prescribed by the regulations.

(2) A corporation may have a name described in clause (1) (b) Exception to subs. (1) upon complying with conditions prescribed by the regulations.

(3) There shall be filed with the Director such documents Documents filed relating to the name of the corporation as may be prescribed by the regulations. R.S.O. 1980, c. 54, s. 6, *amended*.

10.—(1) The word “Limited”, “Limitée”, “Incorporated”, Use of “Limited”, “Limitée”, etc. “Incorporée”, or “Corporation” or the corresponding abbreviations “Ltd.”, “Ltée”, “Inc.” or “Corp.” shall be part, in addition to any use in a figurative or descriptive sense, of the name of every corporation, but a corporation may be legally designated by either the full or the abbreviated form.

(2) Subject to the provisions of this Act and the regulations, a Corporate name corporation may set out its name in its articles in an English form, a French form, an English form and a French form or a combined English and French form and it may be legally designated by any such name.

(3) For the purposes of subsections (1) and (2), only letters Idem from the alphabet of the English language or Arabic numerals or

a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation.

Idem (4) Subject to the provisions of this Act and the regulations, a corporation may have in its articles a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name.

Idem (5) Notwithstanding subsection (4), a corporation shall set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation and in all documents sent to the Director under this Act. R.S.O. 1980, c. 54, s. 8, *amended*.

Unauthorized use of "Limited", etc. **11.**—(1) No person, while not incorporated, shall trade or carry on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof, or any version thereof in another language, is used.

Idem (2) Where a corporation carries on business or identifies itself to the public by a name or style other than as provided in the articles, that name or style shall not include the word "Limited", "Incorporated", or "Corporation" or any abbreviation thereof or any version thereof in another language. R.S.O. 1980, c. 54, s. 10, *amended*.

Change of name if objectionable **12.**—(1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 9, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to perform undertaking (2) Where an undertaking to dissolve or change its name is given by a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of a certificate of amendment, the articles are amended accordingly.

Idem (3) Where an undertaking to dissolve or change its name is given by a person who is not a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the

certificate, the articles are amended accordingly. R.S.O. 1980, c. 54, s. 11, *amended*.

13. A corporation may, but need not, have a corporate seal. R.S.O. 1980, c. 54, s. 12 (1), *amended*. Corporate seal

14.—(1) A corporation shall at all times have a registered office in the municipality or geographic township within Ontario specified in its articles. Registered office

(2) The head office of every corporation incorporated prior to the day this Act comes into force shall be deemed to be the registered office of the corporation. Idem

(3) A corporation may by resolution of its directors change the location of its registered office within a municipality or geographic township and shall, within ten days after the passing of the resolution, file a notice of change under the *Corporations Information Act*. Change of address
R.S.O. 1980, c. 96

(4) Failure to comply with subsection (3) does not affect the validity of the resolution. R.S.O. 1980, c. 54, s. 13, *amended*. Validity

15. A corporation has the capacity and the rights, powers and privileges of a natural person. R.S.O. 1980, c. 54, s. 14 (1), *amended*. Corporate powers

16. A corporation has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit. R.S.O. 1980, c. 54, s. 14 (4), *amended*. Capacity to act outside Ontario

17.—(1) It is not necessary for a by-law to be passed in order to confer any particular power on the corporation or its directors. *New.* Corporate power not dependent on by-law

(2) A corporation shall not carry on any business or exercise any power that it is restricted by its articles from carrying on or exercising, nor shall the corporation exercise any of its powers in a manner contrary to its articles. R.S.O. 1980, c. 54, s. 14 (3), *amended*. Power limited by articles, etc.

(3) Notwithstanding subsection (2) and subsection 3 (2), no act of a corporation including a transfer of property to or by the corporation is invalid by reason only that the act is contrary to its articles, by-laws, a unanimous shareholder agreement or this Act. R.S.O. 1980, c. 54, s. 15 (1), *amended*. Acting outside powers

18. No person is affected by or is deemed to have notice or knowledge of the contents of a document concerning a corporation Where notice is not deemed

by reason only that the document has been filed with the Director or is available for inspection at an office of the corporation. *New.*

Indoor
management
rule

19. A corporation or a guarantor of an obligation of a corporation may not assert against a person dealing with the corporation or with any person who has acquired rights from the corporation that,

R.S.O. 1980,
c. 96

- (a) the articles, by-laws or any unanimous shareholder agreement have not been complied with;
- (b) the persons named in the most recent notice filed under the *Corporations Information Act*, or named in the articles, whichever is more current, are not the directors of the corporation;
- (c) the location named in the most recent notice filed under subsection 14 (3) or named in the articles, whichever is more current, is not the registered office of the corporation;
- (d) a person held out by a corporation as a director, an officer or an agent of the corporation has not been duly appointed or does not have authority to exercise the powers and perform the duties that are customary in the business of the corporation or usual for such director, officer or agent;
- (e) a document issued by any director, officer or agent of a corporation with actual or usual authority to issue the document is not valid or not genuine; or
- (f) financial assistance referred to in section 20 or a sale, lease or exchange of property referred to in subsection 183 (3) was not authorized,

except where the person has or ought to have, by virtue of his position with or relationship to the corporation, knowledge to that effect. *New.*

Financial
assistance by
corporation

20.—(1) Except as permitted under subsection (2), a corporation or any corporation with which it is affiliated, shall not, directly or indirectly, give financial assistance by means of a loan, guarantee or otherwise,

- (a) to any shareholder, director, officer or employee of the corporation or affiliated corporation or to an associate of any such person for any purpose; or

- (b) to any person for the purpose of or in connection with a purchase of a share, or a security convertible into or exchangeable for a share, issued or to be issued by the corporation or affiliated corporation,

where there are reasonable grounds for believing that,

- (c) the corporation is or, after giving the financial assistance, would be unable to pay its liabilities as they become due; or
- (d) the realizable value of the corporation's assets, excluding the amount of any financial assistance in the form of a loan and in the form of any secured guarantee, after giving the financial assistance, would be less than the aggregate of the corporation's liabilities and stated capital of all classes.

(2) A corporation may give financial assistance by means of a ^{Idem} loan, guarantee or otherwise,

- (a) to any person in the ordinary course of business if the lending of money is part of the ordinary business of the corporation;
- (b) to any person on account of expenditures incurred or to be incurred on behalf of the corporation;
- (c) to its holding body corporate if the corporation is a wholly owned subsidiary of the holding body corporate;
- (d) to a subsidiary body corporate of the corporation;
- (e) to employees of the corporation or any of its affiliates,
 - (i) to enable or assist them to purchase or erect living accommodation for their own occupation, or
 - (ii) in accordance with a plan for the purchase of shares of the corporation or any of its affiliates.

(3) A contract made by a corporation in contravention of this section may be enforced by the corporation or by a lender for value in good faith without notice of the contravention. *New.* ^{Validity of contract}

21.—(1) Except as provided in this section, a person who enters into an oral or written contract in the name of or on behalf of a corporation before it comes into existence is personally bound by the contract and is entitled to the benefits thereof. ^{Contract prior to corporate existence}

Adoption of
contract by
corporation

(2) A corporation may, within a reasonable time after it comes into existence, by any action or conduct signifying its intention to be bound thereby, adopt an oral or written contract made before it came into existence in its name or on its behalf, and upon such adoption,

- (a) the corporation is bound by the contract and is entitled to the benefits thereof as if the corporation had been in existence at the date of the contract and had been a party thereto; and
- (b) a person who purported to act in the name of or on behalf of the corporation ceases, except as provided in subsection (3), to be bound by or entitled to the benefits of the contract.

Non-adoption
of contract

(3) Except as provided in subsection (4), whether or not an oral or written contract made before the coming into existence of a corporation is adopted by the corporation, a party to the contract may apply to a court for an order fixing obligations under the contract as joint or joint and several or apportioning liability between the corporation and the person who purported to act in the name of or on behalf of the corporation, and, upon such application, the court may make any order it thinks fit.

Exception
to subs. (1)

(4) If expressly so provided in the oral or written contract referred to in subsection (1), a person who purported to act in the name of or on behalf of the corporation before it came into existence is not in any event bound by the contract or entitled to the benefits thereof. R.S.O. 1980, c. 54, s. 19, *amended*.

PART III

CORPORATE FINANCE

Shares

22.—(1) Shares of a corporation shall be in registered form and shall be without nominal or par value.

Idem

(2) Shares with nominal or par value of a corporation incorporated before the day this section comes into force shall be deemed to be shares without nominal or par value.

Rights of
shareholders

(3) Where a corporation has only one class of shares, the rights of the holders thereof are equal in all respects and include the rights,

- (a) to vote at all meetings of shareholders; and
- (b) to receive the remaining property of the corporation upon dissolution.

Idem

(4) The articles may provide for more than one class of shares and where they so provide,

(a) the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out therein; and

(b) each of the rights set out in subsection (3) shall be attached to at least one class of shares, but both such rights are not required to be attached to any one class.

(5) Notwithstanding subsection (4), the right of the holders of a class of shares to one vote for each share at all meetings of shareholders other than meetings of the holders of another class of shares, or to receive the remaining property of the corporation upon dissolution, need not be set out in the articles. R.S.O. 1980, c. 54, s. 23, *amended*. Saving provision

(6) Except as provided in section 25, each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1980, c. 54, s. 27. Shares within a class equal

23.—(1) Subject to the articles, the by-laws, any unanimous shareholder agreement and section 26, shares may be issued at such time and to such persons and for such consideration as the directors may determine. Issuance of shares

(2) Shares issued by a corporation are non-assessable and the holders are not liable to the corporation or to its creditors in respect thereof. *New*. Shares non-assessable

(3) A share shall not be issued until the consideration for the share is fully paid in money or in property or past service that is not less in value than the fair equivalent of the money that the corporation would have received if the share had been issued for money. R.S.O. 1980, c. 54, s. 42 (4), *amended*. Fully-paid shares

(4) The directors shall, in connection with the issue of any share not issued for money, determine, Value determined by directors

(a) the amount of money the corporation would have received if the share had been issued for money; and

(b) either,

(i) the fair value of the property or past service in consideration of which the share is issued, or

(ii) that such property or past service has a fair value that is not less than the amount of money referred to in clause (a).

(5) In determining the value of property or past service, the directors may take into account reasonable charges and expenses of organization and reorganization and payments for property and past service reasonably expected to benefit the corporation. Idem

Interpre-
tation of
property

(6) For the purposes of subsection (3) and of subsection 24 (3), a document evidencing indebtedness of a person to whom shares are to be issued, or of any other person not dealing at arm's length with such person within the meaning of that term in the *Income Tax Act* (Canada), does not constitute property. *New.*

R.S.C. 1952,
c. 148

Separate
capital
account

24.—(1) A corporation shall maintain a separate stated capital account for each class and series of shares it issues.

Idem

(2) A corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration it receives as determined by the directors which, in the case of shares not issued for money, shall be the amount determined by the directors in accordance with clause 23 (4) (a) or, if a determination is made by the directors in accordance with subclause 23 (4) (b) (i), the amount so determined.

Exception to
subs. (2)

(3) Notwithstanding subsection (2) and subsection 23 (3), where a corporation issues shares,

(a) in exchange for,

(i) property of a person who immediately before the exchange does not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada), or

(ii) shares of a body corporate that immediately before the exchange or that, because of the exchange, does not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada); or

(b) under an agreement referred to in subsection 174 (1) or an arrangement referred to in clause 181 (1) (c) or (d) or to shareholders of an amalgamating corporation who receive the shares in addition to or instead of securities of the amalgamated corporation,

the corporation may, subject to subsection (4), add all or any portion of the consideration it received for the shares to the appropriate stated capital account.

Addition to
stated capital
account

(4) On the issue of a share, a corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

(5) Notwithstanding subsection (2), on the day this Act comes into force or at such time thereafter as a corporation has been continued under this Act, as the case may be, the amount in the stated capital account maintained by a corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and, after such time, a corporation may, upon complying with subsection (6), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account.

Stated capital
at time of
coming into
force of
continuance

(6) Where a corporation proposes to add any amount to a stated capital account that it maintains in respect of a class or series of shares otherwise than under subsection 38 (2), the addition to the stated capital account must be approved by special resolution if,

Additions to
stated capital
account

(a) the amount to be added,

- (i) was not received by the corporation as consideration for the issue of shares, or
- (ii) was received by the corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and

(b) the corporation has outstanding shares of more than one class or series.

(7) Where a class or series of shares of a corporation would be affected by the addition of an amount to any stated capital account under subsection (6) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

Idem

(8) Stated capital accounts of a corporation may be expressed in one or more currencies.

Expressed in
one or more
currencies

(9) A corporation shall not reduce its stated capital or any stated capital account except in the manner provided in this Act.

Reduction in
stated capital

(10) The provisions of this Act relating to stated capital do not apply to an open-end mutual fund.

Non-applica-
tion of Act

(11) For the purposes of this section, "open-end mutual fund" means an offering corporation that carries on only the business of

Interpretation

investing the consideration it receives for the shares it issues, and all or substantially all the shares of which are redeemable upon the demand of the holders of such shares. R.S.O. 1980, c. 54, s. 31, *amended*.

Special shares
in series

25.—(1) The articles may authorize the issue of any class of shares in one or more series and may authorize the directors to fix the number of shares in, and to determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series, subject to the limitations set out in the articles.

Proportionate
abatement

(2) If any amount,

(a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or

(b) payable on return of capital in the event of the liquidation, dissolution or winding up of a corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

(c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or

(d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be.

No priority of
shares of same
class

(3) No rights, privileges, restrictions or conditions attached to a series of shares authorized under this section shall confer upon the shares of a series a priority in respect of,

(a) dividends; or

(b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class. R.S.O. 1980, c. 54, s. 28, *amended*.

Articles
designating
special shares

(4) Before the issue of shares of a series authorized under this section, the directors shall send to the Director articles of amendment in the prescribed form designating such series of shares.

Certificate re
special shares

(5) Upon receipt of articles of amendment designating a series of shares, the Director shall endorse thereon, in accordance with

section 272, a certificate which shall constitute the certificate of amendment. R.S.O. 1980, c. 54, s. 181, *amended*.

26. If it is so provided in the articles or a unanimous shareholder agreement, no shares of a class or series shall be issued unless the shares have first been offered to the shareholders of the corporation holding shares of that class or series or of another class or series on such terms as are provided in the articles or unanimous shareholder agreement. *New.* Pre-emptive rights

27.—(1) A corporation may issue warrants as evidence of conversion privileges or options or rights to acquire securities of the corporation, and shall set out the conditions thereof, Conversion privileges, etc.

(a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or

(b) in separate certificates or other documents.

(2) Conversion privileges and options or rights to purchase securities of a corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached. Idem

(3) Where a corporation has granted privileges to convert any securities, other than shares issued by the corporation, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and where the articles limit the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights. *New.* Corporation to maintain sufficient reserve

28.—(1) Except as provided in subsection (2) and sections 29 to 32, a corporation, Subsidiaries not to hold shares of holding bodies corporate

(a) shall not hold shares in itself or in its holding body corporate; and

(b) shall not permit any of its subsidiary bodies corporate to hold shares of the corporation.

(2) A corporation shall cause a subsidiary body corporate of the corporation that holds shares of the corporation to sell or otherwise dispose of those shares within five years from, Disposal of shares

(a) the date the body corporate became a subsidiary of the corporation; or

- (b) if the subsidiary held such shares on the 30th day of April, 1954, and has continued from that date to hold such shares, the coming into force of this Act. R.S.O. 1980, c. 54, s. 46, *part.*

Exception to
s. 28

29.—(1) A corporation may in the capacity of a legal representative hold shares in itself or in its holding body corporate unless it or the holding body corporate or a subsidiary of either of them has a beneficial interest in the shares.

Idem

(2) A corporation may permit a subsidiary body corporate to hold shares of the corporation in the capacity of a legal representative unless the corporation or the subsidiary body corporate or a subsidiary of either of them has a beneficial interest in the shares.

Idem

(3) A corporation may hold shares in itself or in its holding body corporate by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. R.S.O. 1980, c. 54, s. 46.

Exception
relating to
Canadian
ownership



(4) A corporation may, for the purpose of assisting the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control, hold shares in itself that,

- (a) are not restricted for the purpose of assisting the corporation or any of its affiliates or associates to so qualify; or
- (b) are shares into which shares held under clause (a) were converted by the corporation that are restricted for the purpose of assisting the corporation to so qualify and that were not previously held by the corporation.

Prohibited
transfers

(5) A corporation shall not transfer shares held under subsection (4) to any person unless the corporation is satisfied, on reasonable grounds, that the ownership of the shares as a result of the transfer would assist the corporation or any of its affiliates or associates to achieve the purpose set out in subsection (4).

Where
shares are
transferred

(6) Where shares held under subsection (4) are transferred by a corporation, subsections 23 (1), (3), (4), (5) and (6), clause 127 (3) (c) and subsection 130 (1) apply, with such modifications as the circumstances require, in respect of the transfer as if the transfer were an issue.

Transfer
not void

(7) No transfer of shares by a corporation shall be void or voidable solely because the transfer is in contravention of subsection (5).

(8) A corporation holding, in the capacity of a legal representative, shares in itself or in its holding body corporate or a subsidiary body corporate of a corporation holding, in the capacity of a legal representative, shares of the corporation shall not vote or permit those shares to be voted unless the corporation or subsidiary body corporate, as the case may be,

Corporation holding shares in itself

(a) holds the shares in the capacity of a legal representative; and

(b) has complied with section 48 of the *Securities Act* where that section is applicable. *New.*

R.S.O. 1980, s. 466

30.—(1) Subject to subsection (2) and to its articles, a corporation may purchase or otherwise acquire any of its issued shares or warrants.

Purchase of issued shares permitted

(2) A corporation shall not make any payment to purchase or otherwise acquire shares issued by it if there are reasonable grounds for believing that,

Where prohibited

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,

(i) its liabilities, and

(ii) its stated capital of all classes. R.S.O. 1980, c. 54, s. 38.

31.—(1) Notwithstanding subsection 30 (2) but subject to subsection (3) of this section and to its articles, a corporation may purchase or otherwise acquire shares issued by it to,

Where s. 30 (2) does not apply

(a) settle or compromise a debt or claim asserted by or against the corporation;

(b) eliminate fractional shares; or

(c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation.

Idem

(2) Notwithstanding subsection 30 (2), a corporation may purchase or otherwise acquire shares issued by it to,

(a) satisfy the claim of a shareholder who dissents under section 184; or

(b) comply with an order under section 247.

Restriction on payment

(3) A corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that,

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,

(i) its liabilities, and

(ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired.
R.S.O. 1980, c. 54, s. 38, *amended*.

Redemption of shares

32.—(1) Notwithstanding subsection 30 (2) and subsection 31 (3), but subject to subsection (2) and to its articles, a corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price thereof stated in the articles or calculated according to a formula stated in the articles.

Restriction on redemption

(2) A corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,

(i) its liabilities, and

- (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, rateably with or prior to the holders of the shares to be purchased or redeemed. *New.*

33. A corporation may accept from any shareholder a share of the corporation surrendered to it as a gift, but may not extinguish or reduce a liability in respect of an amount unpaid on any such share except in accordance with section 34. R.S.O. 1980, c. 54, s. 41, *amended.* Donation of share

34.—(1) Subject to subsection (4), a corporation may by special resolution, Reduction of liability re unpaid share: stated capital

- (a) extinguish or reduce a liability in respect of an amount unpaid on any share; or
- (b) reduce its stated capital for any purpose including, without limiting the generality of the foregoing, for the purpose of,

- (i) distributing to the holders of issued shares of any class or series of shares an amount not exceeding the stated capital of the class or series, or

- (ii) declaring its stated capital to be reduced by,

- (A) an amount that is not represented by realizable assets, or

- (B) an amount otherwise determined in respect of which no amount is to be distributed to holders of issued shares of the corporation.

(2) Where a class or series of shares of a corporation would be affected by a reduction of stated capital under clause (1) (b) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote. Right to vote where reduction under subs. (1)

Account to be
reduced
specified

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital effected by the special resolution will be made.

Restriction on
reduction

(4) A corporation shall not take any action to extinguish or reduce a liability in respect of an amount unpaid on a share or to reduce its stated capital for any purpose other than the purpose mentioned in sub-subclause (1) (b) (ii) (A) if there are reasonable grounds for believing that,

- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due; or
- (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities.

Application for
order where
improper
reduction

(5) A creditor of a corporation is entitled to apply to the court for an order compelling a shareholder or other recipient,

- (a) to pay to the corporation an amount equal to any liability of the shareholder that was extinguished or reduced contrary to this section; or
- (b) to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section.

Time
limitation

(6) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the action complained of. *New.*

Class action

(7) Where it appears that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined. R.S.O. 1980, c. 54, s. 101 (4), *amended*.

(8) No person holding shares in the capacity of a personal representative and registered on the records of the corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the person named is subject to all liabilities imposed by this section. R.S.O. 1980, c. 54, s. 101 (5), *amended*.

Shareholder holding shares in fiduciary capacity

(9) This section does not affect any liability that arises under section 130. *New*.

s. 130, does not apply

35.—(1) Upon a purchase, redemption or other acquisition by a corporation under section 30, 31, 32, 40 or 184 or clause 247 (3) (f) of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

Amount deducted from account upon purchase, etc., of shares

(2) A corporation shall deduct the amount of a payment made by the corporation to a shareholder under clause 247 (3) (g) from the stated capital account maintained for the class or series of shares in respect of which the payment was made.

Idem

(3) A corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 34 (3).

Adjustment in stated capital account

(4) Upon a change under section 167, 185 or 247 of issued shares of a corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

Idem

- (a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and
- (b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to

be maintained for the class or series of shares into which the shares have been changed or converted.

Idem

(5) For the purpose of subsection (4) and subject to its articles, where a corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

Status of shares purchased, etc.

(6) Shares of any class or series or fractional shares issued by a corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the articles limit the number of authorized shares of the class or series, may be restored to the status of authorized but unissued shares of the class.

Interpretation

(7) For the purposes of this section,

(a) a corporation holding shares in itself as permitted by subsections 29 (1) and (2) shall be deemed not to have purchased, redeemed or otherwise acquired the shares; and

(b) a corporation holding shares in itself under clause 29 (4) (a) shall be deemed not to have purchased, redeemed or otherwise acquired the shares at the time they were acquired, but,

(i) any of those shares that are held by the corporation at the expiration of two years, and

(ii) any shares into which any of those shares were converted by the corporation and held under clause 29 (4) (b) that are held by the corporation at the expiration of two years after the shares from which they were converted were acquired,

shall be deemed to have been acquired at the expiration of the two years.

Conversion of shares

(8) Where shares of a class or series are changed under section 167, 185 or 247, or converted pursuant to their terms, into the same or another number of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted and, if the articles limit the number of shares of either of such classes or

series, the number of authorized shares of such class or series is changed and the articles are amended accordingly. R.S.O. 1980, c. 54, s. 35 (5), *amended*.

36.—(1) A contract with a corporation providing for the purchase of shares of the corporation by the corporation is specifically enforceable against the corporation except to the extent that the corporation cannot perform the contract without thereby being in breach of section 30 or 31. Contract with corporation re purchase of its shares

(2) In any action brought on a contract referred to in subsection (1), the corporation has the burden of proving that performance thereof is prevented by section 30 or 31. Idem

(3) Until the corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or in a liquidation to be ranked subordinate to the rights of creditors but in priority to the other shareholders. Idem
New.

37. The directors may authorize the corporation to pay a reasonable commission to any person in consideration of his purchasing or agreeing to purchase shares of the corporation from the corporation or from any other person, or procuring or agreeing to procure purchasers for any such shares. R.S.O. 1980, c. 54, s. 43 (1), *amended*. Commission on sale of shares

38.—(1) The directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property. R.S.O. 1980, c. 54, s. 146 (2), *amended*. Declaration of dividends

(2) If shares of a corporation are issued in payment of a dividend, the corporation shall add to the stated capital account maintained or to be maintained for the shares of the class or series issued in payment of the dividend the declared amount of the dividend stated as an amount of money. R.S.O. 1980, c. 54, s. 148, *amended*. Stock dividend

(3) The directors shall not declare and the corporation shall not pay a dividend if there are reasonable grounds for believing that, When dividend not to be declared

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets would thereby be less than the aggregate of,

(i) its liabilities, and

(ii) its stated capital of all classes. R.S.O. 1980, c. 54, s. 146 (1, 3), *amended*.

Corporations
with wasting
assets

39.—(1) Notwithstanding anything in this Act, a corporation,

(a) that for the time being carries on as its principal business the business of operating a producing mining, gas or oil property owned and controlled by it;

(b) at least 75 per cent of the assets of which are of a wasting character; or

(c) incorporated for the purpose of acquiring the assets or a substantial part of the assets of a body corporate and administering such assets for the purpose of converting them into cash and distributing the cash among the shareholders of the corporation,

may declare and pay dividends out of the funds derived from the operations of the corporation.

Extent of
impairment of
capital

(2) The powers conferred by subsection (1) may be exercised notwithstanding that the value of the net assets of the corporation may be thereby reduced to less than its stated capital of all classes if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the corporation, exclusive of its stated capital of all classes. R.S.O. 1980, c. 54, s. 147 (1, 2).

Special
resolution

(3) The powers conferred by subsection (1) may be exercised only under the authority of a special resolution. R.S.O. 1980, c. 54, s. 147 (3), *amended*.

Lien on share

40.—(1) Subject to subsection 56 (3), the articles or by-laws may provide that the corporation has a lien on a share registered in the name of a shareholder or his legal representative for a debt of that shareholder to the corporation.

Where subs. (1)
does not apply

(2) Subsection (1) does not apply to a corporation that has shares listed on a stock exchange recognized by the Commission.

Enforcement of
lien

(3) A corporation may enforce a lien referred to in subsection (1) in accordance with its articles or by-laws. R.S.O. 1980, c. 54, s. 45 (3), *amended*.

Shares personal
property

41. The shares of a corporation are personal property. R.S.O. 1980, c. 54, s. 44.

42.—(1) A corporation shall not impose restrictions on the issue, transfer, or ownership of shares of any class or series except such restrictions as are authorized by its articles. Restrictions on issue, transfer, etc.

(2) A corporation that has imposed restrictions on the issue, transfer, or ownership of its shares of any class or series shall not offer any of its shares to the public unless the restrictions are necessary, No public offer if issue, transfer, etc., restricted—exceptions

(a) by or under any Act of Canada or Ontario as a condition to the obtaining, holding or renewal of authority to engage in any activity necessary to its undertaking;

(b) for the purpose of achieving or preserving its status as a Canadian corporation for the purpose of any Act of Canada or Ontario;

(c) to limit to a specified level the ownership of its shares by any person for the purpose of assisting the corporation or any of its affiliates or associates to qualify under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration as a dealer, or to qualify for membership in a stock exchange in Ontario recognized as such by the Commission; or R.S.O. 1980, c. 466

(d) to attain or to maintain a specified level of Canadian ownership or control for the purpose of assisting the corporation or any of its affiliates or associates to qualify to receive licences, permits, grants, payments or other benefits under any prescribed Act of Canada or a province or ordinance of a territory.

(3) Except as prescribed, nothing in subsection (2) authorizes a corporation to limit the number of shares of the corporation that may be owned by any person unless such ownership might adversely affect the ability of the corporation or any of its affiliates or associates to achieve a purpose set out in clause (2) (a), (b), (c) or (d). Application of subs. (2) limited R.S.O. 1980, c. 54, s. 45 (1, 2), *amended*.

43. Nothing in this Act prohibits the issue of debt obligations in bearer form. Bearer debt obligations R.S.O. 1980, c. 54, s. 52.

44.—(1) A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. Irredeemable debt obligation R.S.O. 1980, c. 54, s. 53.

Debt
obligations

(2) Debt obligations issued, pledged, hypothecated or deposited by a corporation are not redeemed by reason only that the indebtedness evidenced by the debt obligations or in respect of which the debt obligations are issued, pledged, hypothecated or deposited is repaid.

Idem

(3) Debt obligations issued by a corporation and purchased, redeemed or otherwise acquired by it may be cancelled or, subject to any applicable trust indenture or other agreement, may be reissued, pledged or hypothecated to secure any obligation of the corporation then existing or thereafter incurred, and any such acquisition and reissue, pledge or hypothecation is not a cancellation of the debt obligations. *New.*



PART IV

SALE OF RESTRICTED SHARES

Restricted
shares held in
contraven-
tion—
sale by
corporation

45.—(1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series in order to assist the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control may, for that purpose, under such conditions and after giving such notice as may be prescribed, sell, as if it were the owner thereof, any of the restricted shares that are owned, or that the directors, in good faith, have determined may be owned, contrary to the restrictions.

Obligations
of directors
in sale

(2) Where shares are to be sold by a corporation under subsection (1), the directors of the corporation shall select the shares for sale in good faith and in a manner that is not unfairly prejudicial to, and does not unfairly disregard the interests of, the holders of the shares in the restricted class or series taken as a whole.

Effect of
sale

(3) Where shares are sold by a corporation under subsection (1), the owner of the shares immediately prior to the sale shall, by that sale, be divested of his interest in the shares, and the person who, but for the sale, would be the registered holder of the shares or a person who satisfies the corporation that, but for the sale, he could properly be treated as the registered holder of the shares under section 67 shall, from the time of the sale, be entitled to receive only the net proceeds of the sale, together with any income earned thereon from the beginning of the month next following the date of the receipt by the corporation of the proceeds of the sale, less any taxes thereon and any costs of administration of a trust fund constituted under subsection (5) in relation thereto.

(4) Subsections 67 (4), (5) and (6) apply in respect of the person who is entitled under subsection (3) to receive the proceeds of a sale of shares under subsection (1) as if the proceeds were a security and the person were a registered holder of the security. s. 67 (4-6) apply

(5) The proceeds of a sale by a corporation under subsection (1) constitute a trust fund in the hands of the corporation for the benefit of the person entitled under subsection (3) to receive the proceeds of the sale, and any such trust fund may be commingled by the corporation with other such trust funds and shall be invested in such manner as may be prescribed. Proceeds of sale to be trust fund

(6) Reasonable costs of administration of a trust fund referred to in subsection (5) may be deducted from the trust fund and any income earned thereon. Cost of administration

(7) Subject to this section, a corporation may transfer any trust fund referred to in subsection (5) and the administration thereof, to a trust company in Canada registered as such under the laws of Canada, a province or a territory, and the corporation is thereupon discharged of all further liability in respect of the trust fund. Appointment of trust company

(8) A receipt signed by a person entitled under subsection (3) to receive the proceeds of a sale that constitute a trust fund under subsection (5) shall be a complete discharge of the corporation and of any trust company to which a trust fund is transferred under subsection (7), in respect of the trust fund and income earned thereon paid to the person. Discharge of corporation and trust company

(9) A trust fund described in subsection (5) together with any income earned thereon, less any taxes thereon and costs of administration, that has not been claimed, by a person entitled under subsection (3) to receive the proceeds of a sale that constitute the trust fund for a period of ten years after the date of the sale is forfeited to the Crown. *New.* Forfeit to Crown

PART V

INDENTURE TRUSTEES

46.—(1) In this Part,

Interpretation

(a) “event of default” means an event specified in a trust indenture on the occurrence of which,

(i) a security interest constituted by the trust indenture becomes enforceable, or

- (ii) the principal, interest and other moneys payable thereunder become or may be declared to be payable before the date of maturity,

but the event is not an event of default until all conditions prescribed by the trust indenture in connection with such event for the giving of notice or the lapse of time or otherwise have been satisfied;

- (b) "trust indenture" means any deed, indenture or other instrument, including any supplement or amendment thereto, made by a body corporate under which the body corporate issues or guarantees debt obligations and in which a person is appointed as trustee for the holders of the debt obligations issued or guaranteed thereunder;
- (c) "trustee" means any person appointed as trustee under the terms of a trust indenture to which a body corporate is a party and includes any successor trustee, whether or not the person is a trust company authorized to carry on business in Ontario. R.S.O. 1980, c. 54, s. 55 (1), *amended*.

Application of
this Part

(2) This Part applies to a trust indenture, whether entered into before or after the day on which this Act comes into force, if, in respect of any debt obligations outstanding or guaranteed thereunder or to be issued or guaranteed thereunder, a prospectus or securities exchange issuer or take-over bid circular has been filed under the *Securities Act* or any predecessor thereof or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. R.S.O. 1980, c. 54, s. 55 (2), *amended*.

R.S.O. 1980,
c. 466

Resident
trustee

(3) The person appointed as trustee under a trust indenture, or at least one of such persons if more than one is so appointed, shall be resident or authorized to do business in Ontario. R.S.O. 1980, c. 54, s. 55 (3).

Exemption by
Commission

(4) Where, upon the application of a body corporate incorporated otherwise than under the laws of Canada, a province or a territory, the Commission is satisfied that to do so would not be prejudicial to the public interest, the Commission may exempt, subject to such terms and conditions as the Commission may impose, a trust indenture from this Part. *New*.

Duty of trustee

47.—(1) A trustee in exercising his powers and discharging his duties shall,

(a) act honestly and in good faith with a view to the best interests of the holders of the debt obligations issued under the trust indenture; and

(b) exercise the care, diligence and skill of a reasonably prudent trustee.

(2) No term of a trust indenture or of any agreement between a trustee and the holders of debt obligations issued thereunder or between the trustee and the issuer or guarantor shall operate so as to relieve a trustee from the duties imposed upon him in subsection (1). R.S.O. 1980, c. 54, s. 56, *amended*. ^{Exculpatory clauses}

48.—(1) No person shall be appointed as trustee if there is a material conflict of interest between his role as trustee and his role in any other capacity. ^{Conflict of interest}

(2) A trustee shall, within ninety days after he becomes aware that a material conflict of interest exists, ^{Idem}

(a) eliminate such conflict of interest; or

(b) resign from office.

(3) If, notwithstanding the provisions of this section, a trustee has a material conflict of interest, the validity and enforceability of the trust indenture under which the trustee has been appointed, of the security interest constituted by or under such trust indenture and of the securities issued under such trust indenture are not affected in any manner whatsoever by reason only of the existence of such material conflict of interest. ^{Validity not affected}

(4) If a trustee contravenes subsection (1) or (2), any interested person may apply to the court for an order that the trustee be replaced, and the court may make an order on such terms as it thinks fit. R.S.O. 1980, c. 54, s. 57, *amended*. ^{Replacing trustee}

49.—(1) An issuer or a guarantor of debt obligations issued or to be issued under a trust indenture, before doing any act referred to in clause (a), (b), (c) or (d), shall furnish the trustee with evidence of compliance with the conditions in the trust indenture relating to, ^{Evidence of compliance}

(a) the issue, certification and delivery of debt obligations under the trust indenture;

(b) the release or release and substitution of property subject to a security interest constituted by the trust indenture;

(c) the satisfaction and discharge of the trust indenture; or

- (d) the taking of any other action to be taken by the trustee at the request of or on the application of the issuer or guarantor.

Idem

(2) Evidence of compliance as required by subsection (1) shall consist in each case of,

- (a) a statutory declaration or certificate made by a director or an officer of the issuer or guarantor stating that the conditions referred to in that section have been complied with in accordance with the terms of the trust indenture; and
- (b) where the trust indenture requires compliance with conditions that are subject to review,
 - (i) by legal counsel, an opinion, and
 - (ii) by an auditor or accountant, an opinion or report of the auditor of the issuer or guarantor, or any accountant licensed under the *Public Accountancy Act* or comparable legislation of the jurisdiction in which the accountant practises, based on the examinations or enquiries required to be made under the trust indenture,

R.S.O. 1980,
c. 405

in each case approved by the trustee, that the conditions have been complied with in accordance with the terms of the trust indenture.

Idem

(3) The evidence of compliance referred to in subsection (2) shall include a statement by the person giving the evidence,

- (a) declaring that he has read and understands the conditions of the trust indenture described in subsection (1);
- (b) describing the nature and scope of the examination or investigation upon which he based the statutory declaration, certificate, opinion or report; and
- (c) declaring that he has made such examination or investigation as he believes necessary to enable him to make the statements or give the opinions contained or expressed therein.

Certificate of
issuer or
guarantor

(4) At least once in each twelve-month period beginning on the date debt obligations are first issued under the trust indenture and at any other reasonable time upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with a certificate that the issuer or guarantor has complied with all requirements contained in the

trust indenture that, if not complied with, would, with the giving of notice, lapse of time or otherwise, constitute an event of default, or, if there has been failure to so comply, giving particulars thereof.

(5) Upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with evidence in such form as the trustee may require as to compliance with any condition therein relating to any action required or permitted to be taken by the issuer or guarantor under the trust indenture or as a result of any obligation imposed by the trust indenture. Evidence of compliance

(6) A trustee is not in contravention of subsection 47 (1) if he relies in good faith upon statements contained in a statutory declaration, certificate, opinion or report that complies with this Act or the trust indenture. Reliance on opinions R.S.O. 1980, c. 54, s. 58.

50. A trustee under a trust indenture and any related person to the trustee shall not be appointed a receiver or receiver and manager or liquidator of the assets or undertaking of the issuer or guarantor of the debt obligations under the trust indenture. Trustee not to be receiver R.S.O. 1980, c. 54, s. 59.

51.—(1) The trustee shall be required to give to the holders of debt obligations issued under the trust indenture, within a reasonable time but not exceeding thirty days after the trustee becomes aware of the occurrence thereof, notice of every event of default arising under the trust indenture unless the trustee in good faith determines that the withholding of the notice is in the best interests of the holders of the debt obligations and so advises the issuer or guarantor in writing. Notice of events of default R.S.O. 1980, c. 54, s. 60.

(2) Where notice of the occurrence of an event of default under a trust indenture is given under subsection (1) and the default is thereafter cured, notice that the default is no longer continuing shall be given by the trustee to the holders of the debt obligations within a reasonable time, but not exceeding thirty days, after the trustee becomes aware that the default has been cured. Idem *New.*

52.—(1) Any person, upon payment to a trustee of a reasonable fee therefor, may require the trustee to furnish, within ten days after delivering to the trustee the statutory declaration referred to in subsection (3), a list setting out, Where list of debt obligation holders to be furnished

- (a) the names and addresses of the registered holders of the outstanding debt obligations;
- (b) the principal amount of outstanding debt obligations owned by each such holder; and

- (c) the aggregate principal amount of debt obligations outstanding,

as shown on the records maintained by the trustee on the day that the statutory declaration is delivered to the trustee.

Information
to be
furnished
to trustee

- (2) Upon the demand of a trustee, the issuer of debt obligations shall furnish the trustee with the information required to enable the trustee to comply with subsection (1).

Statutory
declaration

- (3) The statutory declaration required under subsection (1) shall state,

- (a) the name and address of the person requiring the trustee to furnish the list and, if the person is a body corporate, the address for service thereof; and

- (b) that the list will not be used except as permitted under subsection (5).

Idem

- (4) If the person requiring the trustee to furnish a list under subsection (1) is a body corporate, the statutory declaration required under that subsection shall be made by a director or officer of the body corporate.

Use of list

- (5) No person shall use a list obtained under this section except in connection with,

- (a) an effort to influence the voting of the holders of debt obligations;

- (b) an offer to acquire debt obligations; or

- (c) any other matter relating to the debt obligations or the affairs of the issuer or guarantor thereof. *New.*

PART VI

INVESTMENT SECURITIES

Interpretation

53.—(1) In this Part,

- (a) “adverse claim” includes a claim that a transfer is or would be unauthorized or wrongful or that a particular adverse person is the owner of or has an interest in the security;

- (b) “appropriate person”, when used to refer to a person endorsing a security, means,

- (i) the person specified by the security or by special endorsement to be entitled to the security,
 - (ii) where the person so specified is described as a trustee or other fiduciary but is no longer serving in that capacity and notwithstanding that a successor has been appointed or qualified,
 - (A) where only one person is so described, that person or his successor, or
 - (B) where more than one person is so described, the remaining persons,
 - (iii) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise, his executor, administrator, committee, guardian or like fiduciary,
 - (iv) where the security or endorsement specified more than one person as joint tenants or with right of survivorship and by reason of death all cannot sign, the survivor or survivors,
 - (v) a person having the power to sign under the applicable law or controlling instrument, or
 - (vi) to the extent any of the foregoing persons may act through an agent, his authorized agent;
- (c) “bearer form” when applied to a security means a security that is payable to bearer according to its terms and not by reason of any endorsement;
- (d) “*bona fide* purchaser” means a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or order form or of a security in registered form issued to him or endorsed to him or endorsed in blank;
- (e) “broker” means a person engaged for all or part of his time in the business of buying and selling securities and who, in the transaction concerned, acts for or buys a security from or sells a security to a customer;
- (f) “clearing corporation” means a body corporate recognized as a clearing corporation by the Commission;

1980-81,
c. 40 (Can.)

R.S.O. 1980,
c. 249

- (g) “custodian” means a bank to which the *Bank Act* (Canada) applies, a trust company registered under the *Loan and Trust Corporations Act* or such other body corporate as may be recognized by the Commission as a custodian and that is acting as custodian for a clearing corporation;
- (h) “delivery” means voluntary transfer of possession;
- (i) “fiduciary” means a trustee, guardian, committee, curator, tutor, executor, administrator or representative of a deceased person, or any other person acting in a fiduciary capacity;
- (j) “fungible” in relation to securities means securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit;
- (k) “genuine” means free of forgery or counterfeiting;
- (l) “good faith” means honesty in fact in the conduct of the transaction concerned;
- (m) “holder” means a person in possession of a security issued or endorsed to him or to bearer or in blank;
- (n) “issuer” means a body corporate,
 - (i) that is required by this Act to maintain a securities register,
 - (ii) that directly or indirectly creates fractional interests in its rights or property and that issues securities as evidence of such fractional interests,
 - (iii) that places or authorizes the placing of its name on a security, otherwise than as an authenticating trustee, registrar or transfer agent, to evidence that it represents a share, participation or other interest in its property or in an enterprise or to evidence its duty to perform an obligation evidenced by the security, or
 - (iv) that becomes responsible for or in place of any other person described as an issuer in this Part;
- (o) “noted conspicuously” and “appearing conspicuously” mean written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them;

- (p) “order form” when applied to a security means a security that is payable to the order or assigns of any person therein specified with reasonable certainty or to such person or such person’s order;
- (q) “overissue” means the issue of securities in excess of any maximum number of securities that the issuer is authorized by its articles or a trust indenture to issue;
- (r) “proper form” means regular on its face with regard to all formal matters;
- (s) “purchaser” means a person who takes by sale, mortgage, hypothec, pledge, issue, reissue, gift or any other voluntary transaction creating an interest in a security;
- (t) “registered form” when applied to a security means a security that,
 - (i) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or
 - (ii) bears a statement that it is in registered form;
- (u) “security” or “security certificate” means an instrument issued by a body corporate that is,
 - (i) in bearer, order or registered form,
 - (ii) of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment,
 - (iii) one of a class or series or by its terms divisible into a class or series of instruments, and
 - (iv) evidence of a share, participation or other interest in or obligation of the body corporate;
- (v) “transfer” includes transmission by operation of law;
- (w) “trust indenture” means a trust indenture as defined in Part V;
- (x) “unauthorized” when used with reference to a signature or an endorsement means one made without authority,

actual, apparent or of any other type and includes a forgery;

- (y) "valid" means issued in accordance with the applicable law and the articles of the issuer or validated under section 58. R.S.O. 1980, c. 54, s. 61 (1), *amended*.

Application of
this Part
R.S.C. 1970,
c. B-5

(2) This Part does not apply to a promissory note or bill of exchange to which the *Bills of Exchange Act* (Canada) applies. R.S.O. 1980, c. 54, s. 61 (2).

Security as
negotiable
instrument

(3) Except where its transfer is restricted and noted on a security in accordance with subsection 56 (3), a security is a negotiable instrument. *New*.

Share
certificates

54.—(1) Every security holder is entitled at his option to a security certificate in respect of the securities held by him that complies with this Act or to a non-transferable written acknowledgement of his right to obtain a security certificate from a corporation in respect of the securities of the corporation held by him, but the corporation is not bound to issue more than one security certificate in respect of a security or securities held jointly by several persons, and delivery of a security certificate to one of several joint security holders is sufficient delivery to all.

Fee

(2) A corporation may charge a fee of not more than \$3 for a security certificate issued in respect of a transfer. R.S.O. 1980, c. 54, s. 47, *amended*.

Signing of
share
certificates

55.—(1) A security certificate shall be signed manually by at least one director or officer of the corporation or by or on behalf of a registrar, transfer agent, branch transfer agent or issuing or other authenticating agent of the corporation, or by a trustee who certifies it in accordance with a trust indenture, and any additional signatures required on a security certificate may be printed or otherwise mechanically reproduced thereon.

Idem

(2) If a security certificate contains a printed or mechanically reproduced signature of a person, the corporation may issue the security certificate notwithstanding that the person has ceased to be a director or an officer of the corporation, and the security certificate is as valid as if he were a director or an officer at the date of its issue.

Where manual
signature not
required

(3) Notwithstanding subsection (1), a manual signature is not required on,

- (a) a promissory note that is not issued under a trust indenture;

- (b) a scrip certificate;
- (c) a security certificate representing a fractional share; or
- (d) a warrant. R.S.O. 1980, c. 54, s. 48, *amended*.

56.—(1) A corporation shall state upon the face of each share certificate issued by it, Contents of
share
certificate

- (a) the name of the corporation and the words “Incorporated under the law of the Province of Ontario” or words of like effect;
- (b) the name of the person to whom it was issued; and
- (c) the number and class of shares and the designation of any series that the certificate represents.

(2) Where a corporation is authorized to issue shares of more than one class or series, the corporation shall legibly state on each share certificate issued by it, Idem

- (a) the rights, privileges, restrictions and conditions attached to the shares of each class and series that exists when the share certificate is issued; or
- (b) that the class or series of shares that it represents has rights, privileges, restrictions or conditions attached thereto and that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of,
 - (i) the rights, privileges, restrictions and conditions attached to that share and to each class authorized to be issued and to each series in so far as the same have been fixed by the directors, and
 - (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1980, c. 54, s. 49 (1, 2), *amended*.

(3) Where a share certificate issued by a corporation or by a body corporate before the body corporate was continued under section 179 is, or becomes, subject to, Where
restriction,
lien, etc.,
ineffective

- (a) a restriction on its transfer other than a restriction referred to in subsection (8);

- (b) a lien in favour of the corporation;
- (c) a unanimous shareholder agreement; or
- (d) an endorsement under subsection 184 (11),

the restriction, lien, agreement or endorsement is ineffective against a transferee of the share who has no actual knowledge of it, unless it or a reference to it is noted conspicuously on the share certificate.

Notice of
restriction

(4) If a body corporate continued under section 179 has outstanding a share certificate issued prior to the date of the certificate of continuance and if the words "private company" appear on the certificate, those words are deemed to be a notice of a restriction, lien, agreement or endorsement for the purpose of subsection (3).

Idem
R.S.O. 1970,
c. 89

(5) Where a corporation was incorporated as a private company under *The Corporations Act*, or any predecessor thereof, before the 1st day of January, 1971, the words "private company" appearing conspicuously on the face of a share certificate issued before the 1st day of January, 1971 shall be deemed to be notice of a restriction on the transfer of the share for the purpose of subsection (3). R.S.O. 1980, c. 54, s. 70, *amended*.

Par value
share
certificate

(6) A share certificate issued,

- (a) prior to the day this Act comes into force by a corporation; or
- (b) prior to the date of the certificate of continuance by a body corporate continued under section 179,

does not contravene this Act merely because the certificate refers to the share or shares represented thereby as having a nominal or par value.

Information to
be furnished
by corporation

(7) Where a share certificate issued by a corporation contains the statement mentioned in clause (2) (b), the corporation shall furnish to a shareholder on demand and without charge a full copy of the text of,

- (a) the rights, privileges, restrictions and conditions attached to that class authorized to be issued and to that series in so far as the same have been fixed by the directors; and
- (b) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1980, c. 54, s. 49 (5, 6), *amended*.



(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for the purpose of assisting the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control, the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction where the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

Notice of restrictions

(9) Where a share certificate of a corporation contains a reference to a restriction under subsection (8), the corporation shall furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

Furnishing text of restrictions

(10) The omission to note a restriction or a reference to it under subsection (8) shall not invalidate any share or share certificate and shall not render the restriction ineffective against an owner, holder or transferee of the share or share certificate. *New.*

Omission to note restrictions



57.—(1) A corporation may issue a certificate for a fractional share or may issue in place thereof scrip certificates in bearer form that entitle the holder to receive a certificate for a full share by exchanging scrip certificates aggregating a full share.

Certificate for fractional share or scrip certificates

(2) The directors may attach conditions to any scrip certificates issued by a corporation, including conditions that,

Scrip certificates

- (a) the scrip certificates become void if not exchanged for a certificate representing a full share before a specified date; and
- (b) any shares for which such scrip certificates are exchangeable may, notwithstanding any pre-emptive right, be issued by the corporation to any person and the proceeds thereof distributed rateably to the holders of the scrip certificates.

(3) A holder of a fractional share issued by a corporation is not entitled to exercise voting rights or to receive a dividend in respect of the fractional share unless,

Rights of holder of fractional share

- (a) the fractional share results from a consolidation of shares; or
- (b) the articles of the corporation otherwise provide.

Rights of holder of scrip certificate (4) A holder of a scrip certificate is not entitled to exercise voting rights or to receive a dividend in respect of the scrip certificate. R.S.O. 1980, c. 54, s. 50, *amended*.

Overissue

58.—(1) The provisions of this Act that validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue, but,

- (a) if an identical security that does not constitute an over-issue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, that he holds; or
- (b) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand. R.S.O. 1980, c. 54, s. 63 (2).

Validation of overissue

(2) When an issuer subsequently amends its articles or a trust indenture to which it is a party to increase any maximum number of securities to a number equal to or in excess of the maximum number of securities previously authorized plus the amount of the securities overissued, the securities so overissued, and any act taken by any person in reliance upon the validity of such over-issued securities, are valid from the date of their issue.

Non-application of ss. 30, 31, 32, 35

(3) A purchase or payment by an issuer under subsection (1) is not a purchase or payment to which section 30, 31, 32 or 35 applies. *New*.

Evidence

59. In an action on a security,

- (a) unless specifically denied in the pleadings, each signature on the security or in a necessary endorsement is admitted;
- (b) a signature on the security is presumed to be genuine and authorized but, if the effectiveness of the signature is put in issue, the burden of establishing that it is genuine and authorized is on the party claiming under the signature;
- (c) if a signature is admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defence or a defect going to the validity of the security; and
- (d) if the defendant establishes that a defence or defect exists, the plaintiff has the burden of establishing that

the defence or defect is ineffective against him or some person under whom he claims. R.S.O. 1980, c. 54, s. 64, *amended*.

60.—(1) The validity of a security and the rights and duties with respect to the registration of a transfer of a security of an issuer that is a corporation or a body corporate incorporated under the laws of Ontario are governed by this Act and the laws of Ontario. Selection of laws

(2) The validity of a security and the rights and duties with respect to the registration of a transfer of a security of an issuer that is a body corporate other than a corporation or a body corporate incorporated under the laws of Ontario are governed by the law, including the conflict of law rules, of the jurisdiction in which the body corporate was incorporated. R.S.O. 1980, c. 54, s. 65, *amended*. Idem

61.—(1) Unless otherwise agreed and subject to any applicable law, regulation or stock exchange rule, a person required to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or endorsed to him or in blank. Form of transfer

(2) Where the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price, Default in payment

(a) of any security accepted by the buyer; and

(b) of any security not accepted by the buyer if its resale would be unduly burdensome or there is no readily available market,

but resort to the remedy herein provided for shall not be construed so as to affect or limit any rights or remedies under applicable law. R.S.O. 1980, c. 54, s. 66, *amended*.

62.—(1) The obligations and defences of an issuer apply to a guarantor of a security to the extent of his guarantee whether or not his obligation is noted on the security. Position of issuer re guarantor

(2) The person on whose behalf a register of transfers is maintained is an issuer for the purposes of the registration of a transfer under sections 86 to 89. *New*. Issuer

63.—(1) Even against a purchaser for value and without notice of a defect going to the validity of a security, the terms of a security include those stated on the security and those incorporated therein by reference to another instrument, statute, rule, regulation or order to the extent that the terms so referred to do not conflict with the stated terms, but such a reference is not of itself notice to a purchaser for value of a defect going to the validity of Notice of terms of security

the security, notwithstanding that the security expressly states that a person accepting it admits such notice.

Validity of
security

(2) A security is valid in the hands of a purchaser for value without notice of any defect going to its validity.

Defence of
issuer

(3) Except as provided in section 65, the fact that a security is not genuine is a complete defence even against a *bona fide* purchaser.

Idem

(4) All other defences of the issuer including non-delivery and conditional delivery of the security are ineffective against a *bona fide* purchaser. R.S.O. 1980, c. 54, s. 68 (1-3), *amended*.

Idem

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement under which such security is to be issued or distributed. R.S.O. 1980, c. 54, s. 68 (4).

Notice of
defect

64.—(1) After an act or event that creates a right to immediate performance of the principal obligation evidenced by the security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is deemed to have notice of any defect in its issue or any defence of the issuer,

(a) if the act or event requires the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and

(b) if the act or event is not one to which clause (a) applies and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

Revoked call
for redemption
excepted

(2) Subsection (1) does not apply to a call for redemption that has been revoked. R.S.O. 1980, c. 54, s. 69, *amended*.

Unauthorized
signatures on
issue

65. An unauthorized signature placed on a security before or in the course of issue is ineffective, except that the signature is effective in favour of a *bona fide* purchaser if the signing has been done by,

(a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities, or their immediate preparation for signing; or

- (b) an employee of the issuer or of a person referred to in clause (a) who in the ordinary course of his duties handles the security. R.S.O. 1980, c. 54, s. 71.

66.—(1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect,

Completion of
blanks

- (a) any person may complete it by filling in the blanks in accordance with his authority; and
- (b) notwithstanding that the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness. R.S.O. 1980, c. 54, s. 72 (1), *amended*.

(2) A completed security that has been improperly altered, even if fraudulently altered, remains enforceable but only according to its original terms. R.S.O. 1980, c. 54, s. 72 (2).

Improper
alteration

67.—(1) An issuer or a trustee defined in subsection 46 (1) may, subject to sections 95, 96 and 100, treat the registered holder of a security as the person exclusively entitled to vote, to receive notices, to receive any interest, dividend or other payments in respect of the security, and otherwise to exercise all the rights and powers of a holder of the security. R.S.O. 1980, c. 54, s. 73 (1), *amended*.

Effect of
registration

(2) Notwithstanding subsection (1), an issuer whose articles restrict the right to transfer its securities shall, and any other issuer may, treat a person referred to in clause (a), (b) or (c) as a registered security holder entitled to exercise all the rights of the security holder he represents, if that person furnishes evidence as described in subsection 87 (3) to the issuer that he is,

Representa-
tives,
etc., may
exercise rights
of security
holder

- (a) the executor, administrator, heir or legal representative of the heirs, of the estate of a deceased security holder;
- (b) a guardian, committee, trustee, curator or tutor representing a registered security holder who is an infant, an incompetent person or a missing person; or
- (c) a liquidator of, or a trustee in bankruptcy for, a registered security holder.

(3) If a person upon whom the ownership of a security devolves by operation of law, other than a person referred to in subsection (2), furnishes proof of his authority to exercise rights or privileges in respect of a security of the issuer that is not registered in his name, the issuer shall treat the person as entitled to exercise those rights or privileges.

Rights where
ownership
devolves by
operation of
law

Corporation
has no duty to
enforce
performance

(4) An issuer is not required to inquire into the existence of, or see to the performance or observance of, any duty owed to a third person by a registered holder of any of its securities or by anyone whom it treats, as permitted or required by this section, as the owner or registered holder thereof.

Repudiation by
infant

(5) If an infant exercises any rights of ownership in the securities of an issuer, no subsequent repudiation or avoidance is effective against the issuer.

Joint
holders

(6) Where a security is issued to several persons as joint holders, upon satisfactory proof of the death of one joint holder, the issuer may treat the surviving joint holders as owner of the security.

Registration of
executor, etc.

(7) Subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, a person referred to in clause (2) (a) is entitled to become a registered holder or to designate a registered holder, if he deposits with the issuer or its transfer agent,

(a) the original grant of probate or of letters of administration, or a copy thereof certified to be a true copy by,

(i) the court that granted the probate or letters of administration,

(ii) a trust company incorporated under the laws of Canada or a province, or

(iii) a lawyer or notary acting on behalf of the person;
or

(b) in the case of transmission by notarial will in the Province of Quebec, a copy thereof authenticated under the laws of that Province,

together with,

(c) an affidavit or declaration of transmission made by the person stating the particulars of the transmission;

(d) the security certificate that was owned by the deceased holder,

(i) in case of a transfer to the person, with or without the endorsement of that person, and

(ii) in case of a transfer to any other person, endorsed in accordance with section 73; and

(e) any assurance the issuer may require under section 87.

(8) Notwithstanding subsection (7), if the laws of the jurisdiction ^{Idem} governing the transmission of a security of a deceased holder do not require a grant of probate or of letters of administration in respect of the transmission, a legal representative of the deceased holder is entitled, subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, to become a registered holder or to designate a registered holder, if he deposits with the issuer or its transfer agent,

- (a) the security certificate that was owned by the deceased holder; and
- (b) reasonable proof of the governing laws, the deceased holder's interest in the security and the right of the legal representative or the person he designates to become the registered holder.

(9) Deposit of the documents required by subsection (7) or (8) ^{Recording in security register} empowers an issuer or its transfer agent to record in a securities register the transmission of a security from the deceased holder to a person referred to in clause (2) (a) or to such person as that person may designate and, thereafter, to treat the person who thus becomes a registered holder as the owner of those securities. *New.*

68.—(1) A person placing his signature upon a security as ^{Warranties in issue} authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that,

- (a) the security is genuine and in proper form;
- (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
- (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person referred to in subsection ^{Idem} (1) does not assume any further liability for the validity of a security. R.S.O. 1980, c. 54, s. 74.

69.—(1) Upon delivery of a security, the purchaser acquires ^{Rights acquired by purchasers} the rights in the security that his transferor had or had actual authority to convey except that a purchaser who has himself been

a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later *bona fide* purchaser.

Bona fide
purchaser

(2) A *bona fide* purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

Limited
interest

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased. R.S.O. 1980, c. 54, s. 75.

Notice of
adverse claim

70.—(1) A purchaser, including a broker for a seller or purchaser, of a security is deemed to have notice of an adverse claim if,

- (a) the security has been endorsed “for collection” or “for surrender” or for some other purpose not involving transfer; or
- (b) the security has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on a security is not such a statement. R.S.O. 1980, c. 54, s. 76 (1), *amended*.

Idem

(2) Notwithstanding that a purchaser, including a broker for a seller or purchaser, has notice that a security is held for a third person or is registered in the name of or endorsed by a fiduciary, he has no duty to inquire into the rightfulness of the transfer and has no notice of an adverse claim, except that where a purchaser knows that the consideration is to be used for, or that the transaction is for, the personal benefit of the fiduciary or is otherwise in breach of the fiduciary’s duty, the purchaser is deemed to have notice of an adverse claim. R.S.O. 1980, c. 54, s. 76 (2), *amended*.

Idem

(3) An event that creates a right to immediate performance of the principal obligation evidenced by a security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange is not of itself notice of an adverse claim, except in the case of a purchase,

- (a) after one year from any date set for such presentation or surrender for redemption or exchange; or
- (b) after six months from any date for payment of money against presentation or surrender of the security if funds are available for payment on that date. R.S.O. 1980, c. 54, s. 76 (3).

Warranties on
presentation

71.—(1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he

is entitled to the registration, payment or exchange, except that a *bona fide* purchaser who receives a new, reissued or reregistered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature in a necessary endorsement.

(2) A person by transferring a security to a purchaser for value warrants only that, Warranties on transfer

- (a) the transfer is effective and rightful;
- (b) the security is genuine and has not been materially altered; and
- (c) he knows of nothing that might impair the validity of the security.

(3) Where a security is delivered by an intermediary known by the purchaser to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim to be collected against such delivery, the intermediary by such delivery warrants only his own good faith and authority even if he has purchased or made advances against the draft or other claim to be collected against the delivery. Warranties by intermediary

(4) A pledgee or other holder for purposes of security who redelivers a security received, or after payment and on order of the debtor delivers that security to a third person, gives only the warranties of an intermediary under subsection (3). Warranties of pledgee

(5) A broker gives to his customer, to the issuer or to a purchaser, as the case may be, the warranties provided in this section and has the rights and privileges of a purchaser under this section, and those warranties of and in favour of the broker acting as an agent are in addition to warranties given by his customer and warranties given in favour of his customer. R.S.O. 1980, c. 54, s. 77, *amended*. Warranties of broker

72. Where a security in registered form has been delivered to a purchaser without a necessary endorsement, he may become a *bona fide* purchaser only as of the time the endorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied. R.S.O. 1980, c. 54, s. 78. Absence of endorsement

73.—(1) An endorsement of a security in registered form is made when an appropriate person signs on the security or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of the person is written without more upon the back of the security. Endorsement

- Idem (2) An endorsement of a security may be,
- (a) in blank, including to bearer; or
 - (b) a special endorsement, specifying the person to whom the security is to be transferred or who has the power to transfer it,
- and a holder may convert an endorsement in blank into a special endorsement.
- Obligation of endorser (3) Unless otherwise agreed, the endorser by his endorsement assumes no obligation that the security will be honoured by the issuer.
- Partial endorsement (4) An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.
- Appropriate person (5) Whether the person who has made an endorsement is appropriate shall be determined as of the date the endorsement was made and an endorsement by such person does not become unauthorized for the purposes of this Act by virtue of any subsequent change of circumstances.
- Improper endorsement by fiduciary (6) Failure of a fiduciary to comply with a controlling instrument or with the law applicable to the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his endorsement unauthorized for the purposes of this Act. R.S.O. 1980, c. 54, s. 79.
- Delivery necessary **74.** An endorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears, or if the endorsement is on a separate document until the delivery of both the document and the security. R.S.O. 1980, c. 54, s. 80.
- Endorsement of security in bearer form **75.** An endorsement of a security in bearer form may give notice of an adverse claim under section 70 but does not otherwise affect any right to registration that the holder has. *New.*
- Effect of unauthorized endorsement **76.—(1)** The owner of a security may assert the ineffectiveness of an endorsement against the issuer or any purchaser, other than a *bona fide* purchaser who received a new, reissued or reregistered security on registration of transfer, unless the owner,
- (a) has ratified an unauthorized endorsement of the security; or
 - (b) is otherwise precluded from impugning the effectiveness of an unauthorized endorsement.

(2) An issuer who registers the transfer of a security upon an unauthorized endorsement is liable for improper registration. R.S.O. 1980, c. 54, s. 81, *amended*. Idem

77.—(1) Every person who guarantees a signature of an endorser of a security warrants that at the time of signing, Guarantee of signature

- (a) the signature was genuine;
- (b) the signer was an appropriate person to endorse; and
- (c) the signer had legal capacity to sign,

but the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(2) Any person may guarantee an endorsement of a security and by so doing warrants not only the signature but also the rightfulness of the particular transfer in all respects. Guarantee of endorsement

(3) No issuer may require a guarantee of endorsement as a condition to registration of transfer. Idem

(4) The warranties referred to in this section are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of warranty. R.S.O. 1980, c. 54, s. 82, *amended*. Liability of guarantor

78.—(1) Delivery to a purchaser occurs when,

- (a) he or a person designated by him acquires possession of a security;
- (b) his broker acquires possession of a security specially endorsed or issued in the name of the purchaser;
- (c) his broker sends him confirmation of the purchase and the broker in his records identifies a specific security in the broker's possession as belonging to the purchaser;
- (d) with respect to an identified security to be delivered while still in the possession of a third person, that person acknowledges that he holds it for the purchaser; or
- (e) appropriate entries in the records of a clearing corporation are made under section 85.

What constitutes delivery

(2) A purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in clauses (1) (b), (c) and (e). What constitutes ownership

Idem

(3) If a security is part of a fungible bulk, the purchaser is the owner of a proportionate property interest in the fungible bulk.

Notice of
adverse claim
after delivery

(4) Notice of an adverse claim received by a broker or by a purchaser after the broker takes delivery as a holder for value is not effective against the broker or the purchaser except that as between the broker and the purchaser, the purchaser may demand delivery of an equivalent security as to which no notice of an adverse claim has been received. R.S.O. 1980, c. 54, s. 83, *amended*.

Duty of seller
to deliver

79.—(1) Unless otherwise agreed where a sale of a security is made on a stock exchange recognized for the purposes of this Part by the Commission or otherwise through brokers,

- (a) the selling customer fulfils his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or, if requested, causes an acknowledgement to be made to the selling broker that it is held for him; and
- (b) the selling broker including a correspondent broker acting for a selling customer fulfils his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the recognized stock exchange on which the transaction took place.

Idem

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgement to be made to the purchaser that it is held for him.

Idem

(3) A sale to a broker purchasing for his own account is subject to subsection (2) and not subsection (1), unless the sale is made on a recognized stock exchange. R.S.O. 1980, c. 54, s. 84, *amended*.

Action for
wrongful
transfer

80.—(1) A person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone except a *bona fide* purchaser reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or claim damages.

Idem

(2) If the transfer of a security is wrongful by reason of an unauthorized endorsement, the owner may reclaim possession of the security or a replacing security even from a *bona fide*

purchaser if the ineffectiveness of the purported endorsement may be asserted against such purchaser under section 76.

(3) The right to reclaim possession of a security may be specifically enforced, its transfer may be restrained and the security may be impounded pending litigation. R.S.O. 1980, c. 54, s. 85, *amended*. Specific performance and injunction

81.—(1) Unless otherwise agreed, a transferor shall on demand supply his purchaser with proof of his authority to transfer or with any other requisite that is necessary to obtain registration of the transfer of a security, but if the transfer is not for value a transferor need not do so unless the purchaser pays the reasonable and necessary costs of the proof and transfer. Transferor's duty to provide requisites for registration of transfer

(2) If the transferor fails to comply with a demand under subsection (1) within a reasonable time, the purchaser may reject or rescind the transfer. R.S.O. 1980, c. 54, s. 86, *amended*. Effect of failure

82. No seizure of a security or other interest evidenced thereby is effective until the person making the seizure obtains possession of the security. *New*. When seizure effective

83. An agent or bailee who in good faith, including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities, has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal has no right to dispose of them. R.S.O. 1980, c. 54, s. 87. Transfer by agent in good faith not conversion

84. A contract for the sale of securities is not enforceable by way of action or defence unless, Contract for sale

- (a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price;
- (b) delivery of the security has been accepted or payment has been made, but the contract is enforceable under this provision only to the extent of such delivery or payment;
- (c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under clause (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within a reasonable time after its receipt; or

- (d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price. R.S.O. 1980, c. 54, s. 88.

Transfer
through
clearing house

85.—(1) If a security,

- (a) is in the custody of a clearing corporation or of a custodian or nominee of either, subject to the instructions of the clearing corporation;
- (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian or a nominee of either; and
- (c) is shown on the account of a transferor or pledgor in the records of the clearing corporation,

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries in the records of the clearing corporation, reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

Interest in
fungible bulk

(2) Under this section, entries may be in respect of like securities or interests therein as part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

Constructive
endorsement
and delivery

(3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank representing the amount of the obligation or the number of shares or rights transferred or pledged.

Idem

(4) If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party and the pledgee or secured party shall be deemed to have taken possession for all purposes including the purposes of the *Personal Property Security Act*.

R.S.O. 1980,
c. 375

Holder

(5) A transferee or pledgee under this section is a holder.

Not
registration

(6) A transfer or pledge under this section does not constitute a registration of transfer under sections 86 to 90.

Error in
records

(7) That entries made in the records of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations

of the clearing corporation to any person adversely affected thereby.

(8) For the purposes of this section, if a clearing corporation or its nominee is registered in the securities register of a body corporate as the owner of a share, participation or other interest in or obligation of the body corporate, but such body corporate has not issued a security certificate in respect thereof, Where security certificate not issued

- (a) the clearing corporation or its nominee shall be deemed to have custody of a security certificate in respect of such share, participation or other interest in or obligation of the body corporate; and
- (b) such security certificate shall be deemed to be registered in the name of the clearing corporation or its nominee, as the case may be. R.S.O. 1980, c. 54, s. 89, *amended*.

86.—(1) Where a security in registered form is presented for transfer, the issuer shall register the transfer if, Duty of issuer to register transfer

- (a) the security is endorsed by the appropriate person;
- (b) reasonable assurance is given that that endorsement is genuine and effective;
- (c) the issuer has no duty to inquire into adverse claims or has discharged any such duty;
- (d) any applicable law of Canada or a province of Canada relating to the collection of taxes has been complied with;
- (e) the transfer is rightful or is to a *bona fide* purchaser; and
- (f) any fee referred to in subsection 54 (2) has been paid.

(2) Where an issuer has a duty to register a transfer of a security, the issuer is liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer. R.S.O. 1980, c. 54, s. 90, *amended*. Liability for undue delay

87.—(1) For the purpose of obtaining reasonable assurance that each necessary endorsement required by section 73 is genuine and effective, the issuer may require a guarantee of the signature of the person endorsing or, where such guarantee is lacking, Assurances required by issuer

- (a) if the endorsement is by an agent, reasonable assurance of authority to sign;
- (b) if the endorsement is by a fiduciary or a successor on whom title or control vests on the death of the holder, appropriate evidence of appointment or incumbency;

- (c) if there is more than one fiduciary or successor, reasonable assurance that all who are required to sign have done so; and
- (d) if the endorsement is by a person other than by a person mentioned in this section, assurance appropriate to the case equivalent as nearly as may be to those required by this section.

Sufficiency of
guarantee

(2) A “guarantee of the signature” in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible, and the issuer may adopt reasonable standards with respect to responsibility.

Appropriate
evidence of
appointment or
incumbency

(3) For the purposes of subsection (1), “appropriate evidence of appointment or incumbency” means,

- (a) in the case of a fiduciary appointed by a court, a copy, certified in accordance with subsection 67 (7) not more than sixty days before the date the security is presented for transfer, of the order of the court;
- (b) in the case of an estate of the deceased holder of net value less than \$3,000 or if the market value of the securities is less than \$600, proof thereof to the reasonable satisfaction of the issuer; or
- (c) in any other case, a copy of a document showing the appointment or other evidence believed by the issuer to be appropriate.

Where contents
not notice

(4) An issuer is not deemed to have notice of the contents of any document obtained under subsection (3) except to the extent that the contents relate directly to appointment or incumbency.

Notice of
additional
assurances

(5) If an issuer demands assurance additional to that specified in this section for a purpose other than that specified in subsection (3) and obtains a copy of a will, trust or partnership agreement, by-law or similar document, the issuer shall be deemed to have notice of all matters contained therein affecting the transfer. R.S.O. 1980, c. 54, s. 91, *amended*.

Notice to issuer
of adverse
claim

88.—(1) An issuer to whom a security is presented for registration has a duty to inquire into adverse claims if,

- (a) written notice of an adverse claim is received at a time and in a manner that affords the issuer a reasonable opportunity to act on it before the issue of a new, re-issued or reregistered security and the notice discloses the name and address of the claimant, the registered owner and the issue of which the security is a part;
- (b) the issuer is deemed to have notice of an adverse claim from a document that is obtained under subsection 87 (5); or

- (c) the issuer is given written notice by the registered owner that the security is lost, apparently destroyed or wrongfully taken.

(2) An issuer may discharge a duty of inquiry by any reasonable means, including notifying an adverse claimant by registered mail sent to the address furnished by him or, if no such address has been furnished, to his residence or regular place of business, that a security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notice either,

Discharge of
duty of inquiry

- (a) the issuer is served with a restraining order or other order of a court; or
- (b) the issuer is provided with an indemnity bond sufficient in the issuer's judgment to protect the issuer and any registrar, transfer agent or other agent of the issuer from any loss that may be incurred by any of them as a result of complying with the adverse claim.

(3) Unless an issuer is deemed to have notice of an adverse claim from a document that is obtained under subsection 87 (5) or has received notice of an adverse claim under subsection (1), if a security presented for registration is endorsed by the appropriate person, the issuer has no duty to inquire into adverse claims and in particular,

Where no duty
to inquire

- (a) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;
- (b) an issuer registering transfer on an endorsement by a fiduciary has no duty to inquire whether the transfer is made in compliance with the document or with the law of the jurisdiction governing the fiduciary relationship; and
- (c) an issuer is deemed not to have notice of the contents of any court record or any registered document even if the record or document is in the issuer's possession and even if the transfer is made on the endorsement of a fiduciary to the fiduciary himself or to his nominee.

(4) A written notice of adverse claim received by an issuer is effective for twelve months from the date when it was received unless the notice is renewed in writing. R.S.O. 1980, c. 54, s. 92, *amended*.

Limitation for
notice

Liability of
issuer

89.—(1) Except as otherwise provided in any applicable law of Canada or any province of Canada relating to the collection of taxes, the issuer is not liable to the owner or any other person who incurs a loss as a result of the registration of a transfer of a security if,

- (a) the necessary endorsements were on or with the security; and
- (b) the issuer had no duty to inquire into adverse claims or had discharged any such duty.

Idem

(2) If an issuer has registered a transfer of a security to a person not entitled to it, the issuer shall deliver on demand a like security to the owner unless,

- (a) subsection (1) applies;
- (b) the owner is precluded by subsection 90 (1) from asserting any claim; or
- (c) the delivery would result in overissue, in which case the issuer's liability is governed by section 58. R.S.O. 1980, c. 54, s. 93, *amended*.

Loss, etc.,
of securities

90.—(1) Where a security has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the issuer of that fact by giving the issuer written notice of his adverse claim within a reasonable time after he knows of the loss, destruction or taking and if the issuer has registered a transfer of the security before receiving such notice, the owner is precluded from asserting against the issuer any claim to a new security.

Replacing
loss, etc., of
securities

(2) Where the owner of a security claims that the security has been lost, apparently destroyed or wrongfully taken, the issuer shall issue a new security in place of the original security if the owner,

- (a) so requests before the issuer has notice that the security has been acquired by a *bona fide* purchaser;
- (b) files with the issuer an indemnity bond sufficient in the issuer's opinion to protect the issuer and any transfer agent, registrar or other agent of the issuer from any loss that it or any of them may suffer by complying with the request to issue a new security; and
- (c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of a new security under subsection (2), a *bona fide* purchaser of the original security presents the original security for registration of transfer, the issuer shall register the transfer unless registration would result in overissue, in which case the issuer's liability is governed by section 58. Rights of *bona fide* purchaser

(4) In addition to any rights on an indemnity bond, the issuer may recover a new security issued under subsection (2) from the person to whom it was issued or any person taking under him other than a *bona fide* purchaser. R.S.O. 1980, c. 54, s. 94, *amended*. Rights of issuer

91.—(1) An authenticating trustee, transfer agent, registrar or other agent for an issuer has in respect of the issue, registration of transfer, and cancellation of a security of the issuer, Duty of agents for issuer

- (a) a duty to the issuer and to the holder or owner to exercise good faith and due diligence; and
- (b) the same obligations to the holder or owner of a security and the same rights, privileges and immunities as the issuer.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent. R.S.O. 1980, c. 54, s. 95. Notice to agents for issuer

PART VII

SHAREHOLDERS

92.—(1) The shareholders of a corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation except under subsection 34 (5), subsection 108 (5) and section 242. R.S.O. 1980, c. 54, s. 102, *amended*. Shareholders' liability limited

(2) The provisions of the *Corporations Act* relating to the liability of a holder of shares that are not fully paid and to the enforcement of such liability apply in respect of shares that were not fully paid, Application of R.S.O. 1980, c. 95, R.S.O. 1970, c. 53

- (a) on the 1st day of January, 1971, in the case of shares of a corporation that then became subject to *The Business Corporations Act*; or
- (b) on the day upon which any other body corporate was continued under *The Business Corporations Act* or under this Act, in the case of shares of such other body corporate. *New*.

Place of
meetings

93. Subject to the articles and any unanimous shareholder agreement, a meeting of shareholders of a corporation shall be held at such place in or outside Ontario as the directors determine or, in the absence of such a determination, at the place where the registered office of the corporation is located. R.S.O. 1980, c. 54, s. 103, *amended*.

Shareholders'
meetings

94. Subject to subsection 104 (1), the directors of a corporation,

- (a) shall call an annual meeting of shareholders not later than eighteen months after the corporation comes into existence and subsequently not later than fifteen months after holding the last preceding annual meeting; and
- (b) may at any time call a special meeting of shareholders. R.S.O. 1980, c. 54, s. 105 (2), *amended*.

Date for
determining
shareholders

95.—(1) For the purpose of determining shareholders,

- (a) entitled to receive payment of a dividend;
- (b) entitled to participate in a liquidation or distribution; or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken.

Idem

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days or by less than twenty-one days the date on which the meeting is to be held.

Idem

(3) Where no record date is fixed,

- (a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,
 - (i) at the close of business on the day immediately preceding the day on which the notice is given, or
 - (ii) if no notice is given, the day on which the meeting is held; and

- (b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution relating thereto.

(4) If a record date is fixed, unless notice of the record date is ^{Notice of date} waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed,

- (a) by advertisement in a newspaper published or distributed in the place where the corporation has its registered office and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and
- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading. R.S.O. 1980, c. 54, s. 110, *amended*.

96.—(1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of an offering corporation, not less ^{Notice of shareholders' meetings} than twenty-one days and, in the case of any other corporation, not less than ten days, but, in either case, not more than fifty days, before the meeting,

- (a) to each shareholder entitled to vote at the meeting;
- (b) to each director; and
- (c) to the auditor of the corporation.

(2) A notice of a meeting is not required to be sent to shareholders who were not registered on the records of the corporation or its transfer agent on the record date determined under subsection 95 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting. ^{Idem}

(3) If a meeting of shareholders is adjourned for less than thirty days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned. ^{Idem}

(4) If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but, ^{Idem}

unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, subsection 111 (1) does not apply.

Special
business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business.

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and
- (b) the text of any special resolution or by-law to be submitted to the meeting. R.S.O. 1980, c. 54, s. 104, *part, amended*.

Shareholders'
meeting

97. Subject to this Act or the articles or by-laws of a corporation or a unanimous shareholder agreement,

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place subject to subsections 96 (3) and (4); and
- (c) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman. R.S.O. 1980, c. 54, s. 104 (1), *part, amended*.

Waiving
notice

98. A shareholder and any other person entitled to attend a meeting of shareholders may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where he attends a meeting for the express pur-

pose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. R.S.O. 1980, c. 54, s. 246 (4), *amended*.

99.—(1) A shareholder entitled to vote at a meeting of shareholders may, Proposal

(a) submit to the corporation notice of a proposal; and

(b) discuss at the meeting any matter in respect of which he would have been entitled to submit a proposal.

(2) Where a corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management information circular required by section 112 or attach the proposal thereto. Circulating proposal

(3) If so requested by a shareholder giving notice of a proposal, the corporation shall include in the management information circular or attach thereto a statement by the shareholder of not more than two hundred words in support of the proposal along with the name and address of the shareholder. Statement in support of proposal

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders. Proposal may include nominations

(5) A corporation is not required to comply with subsections (2) and (3) where, Where subss. (2), (3) do not apply

(a) the proposal is not submitted to the corporation at least sixty days before the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or at least sixty days before a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;

(b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the business or affairs of the corporation;

(c) the corporation, at the shareholder's request, included a proposal in a management information circular relating

to a meeting of shareholders held within two years preceding the receipt of the request, and the shareholder failed to present the proposal, in person or by proxy, at the meeting; or

- (d) substantially the same proposal was submitted to shareholders in a management information circular or a dissident's information circular relating to a meeting of shareholders held within two years preceding the receipt of the shareholder's request and the proposal was defeated.

Where no liability

(6) No corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section.

Where refusal to circulate proposal

(7) Where a corporation refuses to include a proposal in a management information circular, the corporation shall, within ten days after receiving the proposal, send notice to the shareholder submitting the proposal of its intention to omit the proposal from the management information circular and send to him a statement of the reasons for the refusal.

Idem

(8) Upon the application of a shareholder aggrieved by a corporation's refusal under subsection (7), the court may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit.

Idem

(9) The corporation or any person aggrieved by a proposal may apply to the court for an order permitting the corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit.

Idem

(10) An applicant under subsection (8) or (9) shall give the Director notice of the application and the Director is entitled to appear and be heard in person or by counsel.

Interpretation

(11) In this section, "proposal" means a matter that a shareholder entitled to vote proposes to raise at a meeting of shareholders. R.S.O. 1980, c. 54, s. 100, *amended*.

List of shareholders

100.—(1) A corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared,

(a) if a record date is fixed under subsection 95 (2), not later than ten days after such record date; or

(b) if no record date is fixed,

- (i) at the close of business on the day immediately preceding the day on which notice is given, or
- (ii) where no notice is given, on the day on which the meeting is held.

(2) Where a corporation fixes a record date under subsection 95 (2), a person named in the list prepared under clause (1) (a) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that, Entitlement
to vote

- (a) the person has transferred any of his shares after the record date; and
- (b) the transferee of those shares,
 - (i) produces properly endorsed share certificates, or
 - (ii) otherwise establishes that he owns the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that his name be included in the list before the meeting,

in which case the transferee is entitled to vote his shares at the meeting.

(3) Where a corporation does not fix a record date under sub- Idem
section 95 (2), a person named in a list prepared under clause (1) (b) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that,

- (a) the person has transferred any of his shares after the date on which a list referred to in subclause (1) (b) (i) is prepared; and
- (b) the transferee of those shares,
 - (i) produces properly endorsed share certificates, or
 - (ii) otherwise establishes that he owns the shares,

and demands not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that his name be included in the list before the meeting,

in which case the transferee is entitled to vote his shares at the meeting.

Examination
of list

(4) A shareholder may examine the list of shareholders,

(a) during usual business hours at the registered office of the corporation or at the place where its central securities register is maintained; and

(b) at the meeting of shareholders for which the list was prepared. *New.*

Quorum

101.—(1) Unless the by-laws otherwise provide, the holders of a majority of the shares entitled to vote at a meeting of shareholders, whether present in person or represented by proxy, constitute a quorum.

Idem

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

Idem

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

Where only one
shareholder

(4) If a corporation has only one shareholder, or only one holder of any class or series of shares, the shareholder present in person or by proxy constitutes a meeting. *New.*

Voting rights

102.—(1) Unless the articles otherwise provide, each share of a corporation entitles the holder thereof to one vote at a meeting of shareholders.

Representative

(2) Where a body corporate or association is a shareholder of a corporation, the corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the corporation. R.S.O. 1980, c. 54, s. 110 (2), *amended*.

Idem

(3) An individual authorized as set out in subsection (2) may exercise on behalf of the body corporate or association he represents all the powers it could exercise if it were an individual shareholder. R.S.O. 1980, c. 54, s. 111 (1), *amended*.

Joint
shareholders

(4) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them. R.S.O. 1980, c. 54, s. 112, *amended*.

103.—(1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting. Manner of voting

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands. Idem

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion. *New.* Entry in minutes

104.—(1) Except where a written statement is submitted by a director under subsection 123 (2) or where representations in writing are submitted by an auditor under subsection 149 (6), Resolution in lieu of meeting

(a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and

(b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders.

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meetings of shareholders. Copy of resolution kept with minutes
R.S.O. 1980, c. 54, s. 22 (1, 2), *amended*.

105.—(1) The holders of not less than 5 per cent of the issued shares of a corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition. Requisition for shareholders meeting

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the registered office of the corporation. Idem

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless, Duty of directors to call meeting

(a) a record date has been fixed under subsection 95 (2) and notice thereof has been given under subsection 95 (4);

(b) the directors have called a meeting of shareholders and have given notice thereof under section 96; or

(c) the business of the meeting as stated in the requisition includes matters described in clauses 99 (5) (b) to (d).

Where
requisitionist
may call
meeting

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call the meeting.

Calling of
meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws, this Part and Part VIII.

Repayment of
expenses

(6) The corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally. R.S.O. 1980, c. 54, s. 107, *amended*.

Requisition by
court

106.—(1) If for any reason it is impracticable to call a meeting of shareholders of a corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws, the articles and this Act, or if for any other reason the court thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court deems fit.

Power of court

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws, the articles or this Act be varied or dispensed with at a meeting called, held and conducted under this section.

Effect of
meeting

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the corporation duly called, held and conducted. R.S.O. 1980, c. 54, ss. 108, 109, *amended*.

Application to
court

107.—(1) A corporation, shareholder or director may apply to the court to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

Idem

(2) Upon an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares. *New.*

108.—(1) A written agreement between two or more shareholders may provide that in exercising voting rights the shares held by them shall be voted as therein provided. Agreement between shareholders

(2) A written agreement among all the shareholders of a corporation or among all the shareholders and one or more persons who are not shareholders may restrict in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of the corporation. Idem

(3) Where a person who is the beneficial owner of all the issued shares of a corporation makes a written declaration that restricts in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of a corporation, the declaration shall be deemed to be a unanimous shareholder agreement. Unanimous shareholder agreement

(4) Subject to subsection 56 (3), a transferee of shares subject to a unanimous shareholder agreement shall be deemed to be a party to the agreement. Party to unanimous shareholder agreement

(5) A shareholder who is a party to a unanimous shareholder agreement has all the rights, powers, duties and liabilities of a director of the corporation, whether arising under this Act or otherwise, to which the agreement relates to the extent that the agreement restricts the discretion or powers of the directors to manage or supervise the management of the business and affairs of the corporation and the directors are thereby relieved of their duties and liabilities, including any liabilities under section 131, to the same extent. Where shareholder has power, etc., of director

(6) A unanimous shareholder agreement may, without restricting the generality of subsection (2), provide that, Matters that a unanimous shareholder agreement may provide

- (a) any amendment of the unanimous shareholder agreement may be effected in the manner specified therein; and
- (b) in the event that shareholders who are parties to the unanimous shareholder agreement are unable to agree on or resolve any matter pertaining to the agreement, the matter may be referred to arbitration under such procedures and conditions as are specified in the unanimous shareholder agreement. *New.*

PART VIII

PROXIES

Interpretation

109. In this Part,

- (a) “dissident’s information circular” means the circular referred to in clause 112 (1) (b);
- (b) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (c) “management information circular” means the circular referred to in clause 112 (1) (a);
- (d) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a proxyholder to attend and act on his behalf at a meeting of shareholders;
- (e) “solicit” and “solicitation” include,
 - (i) a request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) a request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
 - (iv) the sending of a form of proxy to a shareholder under section 111,

but do not include,

- (v) the sending of a form of proxy in response to an unsolicited request made by or on behalf of a shareholder,
- (vi) the performance of administrative acts or professional services on behalf of a person soliciting a proxy,
- (vii) the sending of material under section 48 of the *Securities Act*, R.S.O. 1980,
c. 466
- (viii) a solicitation by a person in respect of shares of which he is the beneficial owner;
- (f) "solicitation by or on behalf of the management of a corporation" means a solicitation by any person under a resolution or the instructions of the directors of that corporation or a committee of such directors. R.S.O. 1980, c. 54, s. 113, *amended*.

110.—(1) Every shareholder entitled to vote at a meeting of shareholders may by means of a proxy appoint a proxyholder or one or more alternate proxyholders, who need not be shareholders, as his nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy. Proxies

(2) A proxy shall be executed by the shareholder or his attorney authorized in writing or, if the shareholder is a body corporate, by an officer or attorney thereof duly authorized and, in the case of a proxy appointing a proxyholder to attend and act at a meeting or meetings of shareholders of an offering corporation, ceases to be valid one year from its date. Execution and
termination

(3) Every form of proxy shall comply with the regulations. Form of
proxy

(4) A shareholder may revoke a proxy, Revocation

(a) by depositing an instrument in writing executed by him or by his attorney authorized in writing,

(i) at the registered office of the corporation at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used, or

(ii) with the chairman of the meeting on the day of the meeting or an adjournment thereof; or

(b) in any other manner permitted by law.


Time limit
for deposit

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting. R.S.O. 1980, c. 54, s. 114, *amended*.


Mandatory
solicitation of
proxy

111. The management of an offering corporation shall, concurrently with or prior to sending notice of a meeting of shareholders, send a form of proxy to each shareholder who is entitled to receive notice of the meeting. R.S.O. 1980, c. 54, s. 115, *amended*.

Information
circular

 **112.**—(1) No person shall solicit proxies in respect of an offering corporation unless,

- (a) in the case of solicitation by or on behalf of the management of the corporation, a management information circular in prescribed form, either as an appendix to or as a separate document accompanying the notice of the meeting; or
- (b) in the case of any other solicitation, a dissident's information circular in prescribed form,

is sent to the auditor of the corporation, to each shareholder whose proxy is solicited and, if clause (b) applies, to the corporation. 

Filing copy

(2) A person, upon sending a management or dissident's information circular, shall concurrently file with the Commission,

- (a) in the case of a management information circular, a copy thereof together with a copy of the notice of meeting, form of proxy and of any other documents for use in connection with the meeting; and
- (b) in the case of a dissident's information circular, a copy thereof together with a copy of the form of proxy and of any other documents for use in connection with the meeting. R.S.O. 1980, c. 54, s. 116, *amended*.

Exemption
order
re ss. 111,
112

113. Upon the application of any interested person, the Commission may, if satisfied in the circumstances of the particular case that there is adequate justification for so doing, make an order, on such terms and conditions as the Commission may impose, exempting, in whole or in part, any person from the

requirements of section 111 or from the requirements of section 112. R.S.O. 1980, c. 54, s. 117 (2), *amended*.

114.—(1) A person who solicits a proxy and is appointed proxyholder shall attend in person or cause an alternate proxyholder to attend the meeting in respect of which the proxy is given and comply with the directions of the shareholder who appointed him. Proxyholder:

(2) A proxyholder or an alternate proxyholder has the same rights as the shareholder who appointed him to speak at a meeting of shareholders in respect of any matter, to vote by way of ballot at the meeting and, except where a proxyholder or an alternate proxyholder has conflicting instructions from more than one shareholder, to vote at such a meeting in respect of any matter by way of a show of hands. rights of proxyholder

(3) Notwithstanding subsections (1) and (2), where the chairman of a meeting of shareholders declares to the meeting that, to the best of his belief, if a ballot is conducted, the total number of votes attached to the shares represented at the meeting by proxy required to be voted against what will be the decision of the meeting in relation to any matter or group of matters is less than 5 per cent of all the votes that might be cast at the meeting on such ballot, and where a shareholder, proxyholder or alternate proxyholder does not demand a ballot, Vote

- (a) the chairman may conduct the vote in respect of that matter or group of matters by a show of hands; and
- (b) a proxyholder or alternate proxyholder may vote in respect of that matter or group of matters by a show of hands. *New.*

PART IX

DIRECTORS AND OFFICERS

115.—(1) Subject to any unanimous shareholder agreement, the directors shall manage or supervise the management of the business and affairs of a corporation. R.S.O. 1980, c. 54, s. 130, *amended*. Duties

- (2) The board of directors shall consist of, Board of directors
 - (a) in the case of a corporation that is not an offering corporation, at least one individual; and
 - (b) in the case of a corporation that is an offering corporation, not fewer than three individuals.

(3) At least one-third of the directors of an offering corporation shall not be officers or employees of the corporation or any of its affiliates. R.S.O. 1980, c. 54, s. 120 (2), *amended*. Idem

By-laws by
resolution

116.—(1) Unless the articles, the by-laws or a unanimous shareholder agreement otherwise provide, the directors may, by resolution, make, amend or repeal any by-laws that regulate the business or affairs of a corporation.

Confirmation
by shareholders

(2) Where the directors make, amend or repeal a by-law under subsection (1), they shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders may confirm, reject or amend the by-law, amendment or repeal.

Effective
date

(3) Where a by-law is made, amended or repealed under subsection (1), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (2) or until it ceases to be effective under subsection (4) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

Rejection, etc.

(4) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (2), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.

By-law re
shareholder
proposal

(5) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 99 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.

By-law need
not be so
described

(6) A by-law need not be described as a by-law in a resolution referred to in this section. R.S.O. 1980, c. 54, s. 20, *amended*.

First directors
meeting

117.—(1) After incorporation, a meeting of the directors of a corporation shall be held at which the directors may,

(a) make by-laws;

(b) adopt forms of security certificates and corporate records;

(c) authorize the issue of securities;

- (d) appoint officers;
- (e) appoint one or more auditors to hold office until the first annual or special meeting of shareholders;
- (f) make banking arrangements; and
- (g) transact any other business.

(2) Any matter referred to in subsection (1) may be dealt with by the directors by a resolution in writing in accordance with subsection 129 (1). Resolution in writing

(3) Subsection (1) does not apply to a body corporate that is an amalgamated corporation under section 177 or that is continued under section 179. Where subs. (1) does not apply

(4) An incorporator or a director may call the meeting of directors referred to in subsection (1) by giving not less than five days notice thereof to each director, stating the time and place of the meeting. *New.* Calling meeting

118.—(1) The following persons are disqualified from being a director of a corporation: Director disqualification

1. A person who is less than eighteen years of age.
2. A person who is of unsound mind and has been so found by a court in Canada or elsewhere.
3. A person who is not an individual.
4. A person who has the status of bankrupt. *R.S.O. 1980, c. 54, s. 123, part, amended.*

(2) Unless the articles otherwise provide, a director of a corporation is not required to hold shares issued by the corporation. *New.* Holding shares

(3) A majority of the directors of every corporation other than a non-resident corporation shall be resident Canadians but where a corporation has only one or two directors, that director or one of the two directors, as the case may be, shall be a resident Canadian. *R.S.O. 1980, c. 54, s. 120 (3), amended.* Directors to be resident Canadians

119.—(1) Each director named in the articles shall hold office from the date of endorsement of the certificate of incorporation until the first meeting of shareholders. First directors

(2) No director named in the articles shall be permitted to resign his office unless at the time the resignation is to become effective a successor is elected or appointed. Idem

Idem (3) The first directors of a corporation named in the articles have all the powers and duties and are subject to all the liabilities of directors.

Election of directors (4) Subject to clause 120 (a), shareholders of a corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting at which an election of directors is required, directors to hold office for a term expiring not later than the close of the third annual meeting of shareholders following the election.

Term for directors (5) It is not necessary that all directors elected at a meeting of shareholders hold office for the same term.

Idem (6) A director not elected for an expressly stated term ceases to hold office at the close of the first annual meeting of shareholders following his election.

Idem (7) Notwithstanding the provisions of this section, if directors are not elected at a meeting of shareholders the incumbent directors continue in office until their successors are elected.

Failure to elect required number of directors (8) If a meeting of shareholders fails to elect the number of directors required by the articles or by section 125 by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the corporation pending the holding of a meeting of shareholders in accordance with subsection 124 (3). R.S.O. 1980, c. 54, ss. 121, 124, *amended*.

Cumulative voting for directors

120. Where the articles provide for cumulative voting,

- (a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;
- (b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;
- (c) if a shareholder has voted for more than one candidate without specifying the distribution of his votes among the candidates, he is deemed to have distributed his votes equally among the candidates for whom he voted;

- (d) if the number of candidates nominated for director exceeds the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) each director ceases to hold office at the close of the first annual meeting of shareholders following his election;
- (f) a director may not be removed from office if the votes cast against his removal would be sufficient to elect him and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected;
- (g) the number of directors required by the articles may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected; and
- (h) the articles shall require a fixed number and not a minimum and maximum number of directors. R.S.O. 1980, c. 54, ss. 125, 138, *amended*.

121.—(1) A director of a corporation ceases to hold office When director ceases to hold office when,

- (a) he dies or, subject to subsection 119 (2), resigns;
- (b) he is removed in accordance with section 122; or
- (c) he becomes disqualified under subsection 118 (1).

(2) A resignation of a director becomes effective at the time a Idem written resignation is received by the corporation or at the time specified in the resignation, whichever is later. *New*.

122.—(1) Subject to clause 120 (f) the shareholders of a Removal of directors corporation may by ordinary resolution at an annual or special meeting remove any director or directors from office.

(2) Where the holders of any class or series of shares of a Idem corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series.

Idem	(3) Subject to clauses 120 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 124. R.S.O. 1980, c. 54, s. 138, <i>amended</i> .
Entitlement of director	123. —(1) A director of a corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders.
Idem	(2) A director who, <ul style="list-style-type: none"> (a) resigns; (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him from office; or (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because his term of office has expired or is about to expire, is entitled to submit to the corporation a written statement giving the reasons for his resignation or the reasons why he opposes any proposed action or resolution, as the case may be.
Distribution of statement	(3) Upon receiving a statement under subsection (2), a corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders and to the Director unless the statement is included in or attached to a management information circular required by section 112.
No liability	(4) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (3). <i>New</i> .
Vacancies	124. —(1) Notwithstanding subsection 126 (6), but subject to subsections (2), (4) and (5) of this section, a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from, <ul style="list-style-type: none"> (a) an increase in the number of directors otherwise than in accordance with subsection (2), or in the maximum number of directors, as the case may be; or (b) a failure to elect the number of directors required to be elected at any meeting of shareholders.
Appointment of directors subsequent to annual meeting	(2) Where a special resolution passed under subsection 125 (2) empowers the directors of a corporation the articles of which

provide for a minimum and maximum number of directors to determine the number of directors, the directors may not, between meetings of shareholders, appoint an additional director if, after such appointment, the total number of directors would be greater than one and one-third times the number of directors required to have been elected at the last annual meeting of shareholders.

(3) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the articles or by section 125, the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder. Election of directors to make quorum

(4) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors, Where elected by class of shareholders

(a) subject to subsection (5), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a failure to elect the number of directors for that class or series; or

(b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy.

(5) The articles may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series. Idem. where no quorum

(6) A director appointed or elected to fill a vacancy holds office for the unexpired term of his predecessor. Term R.S.O. 1980, c. 54, s. 128, *amended*.

125.—(1) A corporation may increase or decrease the number, or the minimum or maximum number, of its directors in accordance with clause 167 (1) (*m*), but no decrease in the number of directors shall shorten the term of an incumbent director. Change in number of directors

(2) Where a minimum and maximum number of directors of a corporation is provided for in its articles, the number of directors of the corporation and the number of directors to be elected at the annual meeting of the shareholders shall be such number as shall be determined from time to time by special resolution or, if the Number of directors

special resolution empowers the directors to determine the number, by resolution of the directors.

Filing of
special
resolution

(3) The corporation shall file with the Director a certified copy of a special resolution or resolution of the directors, as the case may be, referred to in subsection (2), within ten days after it is passed.

Validity

(4) Failure to comply with subsection (3) does not affect the validity of a special resolution or resolution of the directors therein referred to. R.S.O. 1980, c. 54, s. 122, *amended*.

Place of
meetings

126.—(1) Subject to subsection (2), a meeting of the board of directors shall be held at the place where the registered office of the corporation is located.

Exceptions

(2) Where the by-laws of the corporation so provide, a meeting of the board of directors may be held at any place within or outside Ontario, but, except where the corporation is a non-resident corporation or the articles or the by-laws otherwise provide, in any financial year of the corporation a majority of the meetings of the board of directors shall be held at a place within Canada.

Quorum

(3) Subject to the articles or by-laws and subsection (4), a majority of the number of directors or minimum number of directors required by the articles constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors or minimum number of directors, as the case may be.

Idem

(4) Where a corporation has fewer than three directors, both directors of the corporation must be present at any meeting of directors to constitute a quorum.

Idem

(5) Subject to the articles or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Transacting
business

(6) Directors, other than directors of a non-resident corporation, shall not transact business at a meeting of directors unless a majority of directors present are resident Canadians.

Idem

(7) Notwithstanding subsection (6), directors may transact business at a meeting of directors where a majority of resident Canadian directors is not present if,

- (a) a resident Canadian director who is unable to be present approves in writing or by telephone or other communications facilities the business transacted at the meeting; and

- (b) a majority of resident Canadian directors would have been present had that director been present at the meeting.

(8) In addition to any other provision in the articles or by-laws of a corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting. Calling meeting of directors

(9) In the absence of any other provision in that behalf in the by-laws of the corporation, notice of the time and place for the holding of the meeting called under subsection (8) shall be given to every director of the corporation by sending the notice ten days or more before the date of the meeting to his latest address as shown on the records of the corporation. Notice

(10) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. Waiver of notice

(11) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. Adjourned meeting

(12) Where a corporation has only one director, that director may constitute a meeting. Where one director

(13) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting. Meeting by telephone, etc.

(14) If a majority of the directors participating in a meeting held under subsection (13) are then in Canada, the meeting shall be deemed to have been held in Canada. R.S.O. 1980, c. 54, s. 129, *amended*. Place of meeting by telephone

127.—(1) Subject to the articles or by-laws, directors of a corporation may appoint from their number a managing director, Delegation by directors

who is a resident Canadian, or a committee of directors and delegate to such managing director or committee any of the powers of the directors.

Idem

(2) If the directors of a corporation other than a non-resident corporation, appoint a committee of directors, a majority of the members of the committee shall be resident Canadians.

Limitations
on authority

(3) Notwithstanding subsection (1), no managing director and no committee of directors has authority to,

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or in the office of auditor or appoint or remove any of the chief executive officer, however designated, the chief financial officer, however designated, the chairman or the president of the corporation;
- (c) subject to section 183, issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 37;
- (g) approve a management information circular referred to in Part VIII;
- (h) approve a take-over bid circular, directors' circular, or issuer bid circular referred to in Part XIX of the *Securities Act*;
- (i) approve any financial statements referred to in clause 153 (1) (b) of the Act and Part XVII of the *Securities Act*; or
- (j) adopt, amend or repeal by-laws. R.S.O. 1980, c. 54, s. 131, *amended*.

R.S.O. 1980,
c. 466

Validity of acts
of directors and
officers

128. An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. R.S.O. 1980, c. 54, s. 143.

129.—(1) A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors. R.S.O. 1980, c. 54, s. 22 (1), *amended*. Resolutions in writing

(2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors. *New*. Copy to be kept

130.—(1) Directors of a corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money contrary to section 23 are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution. *New*. Liability of directors

(2) Directors of a corporation who vote for or consent to a resolution authorizing, Idem

- (a) any financial assistance contrary to section 20;
- (b) a purchase, redemption or other acquisition of shares contrary to section 30, 31 or 32;
- (c) a commission contrary to section 37;
- (d) a payment of a dividend contrary to section 38;
- (e) a payment of an indemnity contrary to section 136; or
- (f) a payment to a shareholder contrary to section 184 or 247,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by the corporation.

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded. Joint liability

(4) A director liable under subsection (2) is entitled to apply to the court for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 20, 30, 31, 32, 37, 38, 136, 184 or 247. Application to court

What court
may order

(5) In connection with an application under subsection (4), the court may, if it is satisfied that it is equitable to do so,

- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 20, 30, 31, 32, 37, 38, 136, 184 or 247;
- (b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or
- (c) make any further order it thinks fit.

Exception to
subs. (1)

(6) A director is not liable under subsection (1) if he proves that he did not know and could not reasonably have known that the share was issued for a consideration less than the fair equivalent of the money that the corporation would have received if the share had been issued for money.

Time limitation

(7) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the resolution authorizing the action complained of. R.S.O. 1980, c. 54, ss. 133, 134, 144, *amended*.

Directors' liability
to employees
for wages



131.—(1) The directors of a corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder, or under any collective agreement made by the corporation.

R.S.O. 1980,
c. 137

Limitation

(2) A director is liable under subsection (1) only if,

- (a) he is sued while he is a director or within six months after he ceases to be a director; and
- (b) the action against the director is commenced within six months after the debts became payable, and
 - (i) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part, or
 - (ii) before or after the action is commenced the corporation goes into liquidation, is ordered to be wound up or makes an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) is made against it, and in any such case, the claim for the debts is proved.

R.S.C. 1970,
c. B-4



(3) Where execution referred to in clause (2) (b) has issued, the ^{Idem} amount recoverable from a director is the amount remaining unsatisfied after execution.

(4) Where a director pays a debt under subsection (1) that is ^{Rights of director who pays debt} proved in liquidation and dissolution or bankruptcy proceedings, he is entitled to any preference that the employee would have been entitled to, and where a judgment has been obtained he is entitled to an assignment of the judgment.

(5) A director who has satisfied a claim under this section is ^{Idem} entitled to contribution from the other directors who were liable for the claim. R.S.O. 1980, c. 54, s. 137, *amended*.

132.—(1) A director or officer of a corporation who, ^{Disclosure: conflict of interest}

- (a) is a party to a material contract or transaction or proposed material contract or transaction with the corporation; or
- (b) is a director or an officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the corporation,

shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his interest.

(2) The disclosure required by subsection (1) shall be made, in ^{by director} the case of a director,

- (a) at the meeting at which a proposed contract or transaction is first considered;
- (b) if the director was not then interested in a proposed contract or transaction, at the first meeting after he becomes so interested;
- (c) if the director becomes interested after a contract is made or a transaction is entered into, at the first meeting after he becomes so interested; or
- (d) if a person who is interested in a contract or transaction later becomes a director, at the first meeting after he becomes a director.

by officer

(3) The disclosure required by subsection (1) shall be made, in the case of an officer who is not a director,

- (a) forthwith after he becomes aware that the contract or transaction or proposed contract or transaction is to be considered or has been considered at a meeting of directors;
- (b) if the officer becomes interested after a contract is made or a transaction is entered into, forthwith after he becomes so interested; or
- (c) if a person who is interested in a contract or transaction later becomes an officer, forthwith after he becomes an officer.

Where contract or transaction does not require approval

(4) Notwithstanding subsections (2) and (3), where subsection (1) applies to a director or officer in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the corporation's business, would not require approval by the directors or shareholders, the director or officer shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his interest forthwith after the director or officer becomes aware of the contract or transaction or proposed contract or transaction.

Director not to vote

(5) A director referred to in subsection (1) shall not vote on any resolution to approve the contract or transaction unless the contract or transaction is,

- (a) an arrangement by way of security for money lent to or obligations undertaken by him for the benefit of the corporation or an affiliate;
- (b) one relating primarily to his remuneration as a director, officer, employee or agent of the corporation or an affiliate;
- (c) one for indemnity or insurance under section 136; or
- (d) one with an affiliate. *New.*

General notice of interest

(6) For the purposes of this section, a general notice to the directors by a director or officer disclosing that he is a director or officer of or has a material interest in a person and is to be regarded as interested in any contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any contract so made or transaction so entered into. R.S.O. 1980, c. 54, s. 132 (6), *amended*.

(7) Where a material contract is made or a material transaction is entered into between a corporation and a director or officer of the corporation, or between a corporation and another person of which a director or officer of the corporation is a director or officer or in which he has a material interest, Effect of disclosure

- (a) the director or officer is not accountable to the corporation or its shareholders for any profit or gain realized from the contract or transaction; and
- (b) the contract or transaction is neither void nor voidable,

by reason only of that relationship or by reason only that the director is present at or is counted to determine the presence of a quorum at the meeting of directors that authorized the contract or transaction, if the director or officer disclosed his interest in accordance with subsection (2), (3), (4) or (6), as the case may be, and the contract or transaction was reasonable and fair to the corporation at the time it was so approved. R.S.O. 1980, c. 54, s. 132 (4), *amended*.

(8) Notwithstanding anything in this section, a director or officer, acting honestly and in good faith, is not accountable to the corporation or to its shareholders for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director or officer, and the contract or transaction, if it was reasonable and fair to the corporation at the time it was approved, is not by reason only of the director's or officer's interest therein void or voidable, where, Confirmation by shareholders

- (a) the contract or transaction is confirmed or approved by special resolution at a meeting of the shareholders duly called for that purpose; and
- (b) the nature and extent of the director's or officer's interest in the contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in the information circular required by section 112.

(9) Subject to subsections (7) and (8), where a director or officer of a corporation fails to disclose his interest in a material contract or transaction in accordance with this section or otherwise fails to comply with this section, the corporation or a shareholder of the corporation, or, in the case of an offering corporation, the Commission may apply to the court for an order setting aside the contract or transaction and directing that the director or officer account to the corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit. *New.* Court setting aside contract

133. Subject to the articles, the by-laws or any unanimous shareholder agreement, Officers

- (a) the directors may designate the offices of the corporation, appoint officers, specify their duties and delegate to them powers to manage the business and affairs of the corporation, except, subject to section 183, powers to do anything referred to in subsection 127 (3);
- (b) a director may be appointed to any office of the corporation; and
- (c) two or more offices of the corporation may be held by the same person. *New.*

Standards of care, etc., of directors, etc.

134.—(1) Every director and officer of a corporation in exercising his powers and discharging his duties shall,

- (a) act honestly and in good faith with a view to the best interests of the corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. R.S.O. 1980, c. 54, s. 142, *amended*.

Duty to comply with Act, etc.

(2) Every director and officer of a corporation shall comply with this Act, the regulations, articles, by-laws and any unanimous shareholder agreement.

Can not contract out of liability

(3) Subject to subsection 108 (5), no provision in a contract, the articles, the by-laws or a resolution relieves a director or officer from the duty to act in accordance with this Act and the regulations or relieves him from liability for a breach thereof. *New.*

Consent of director at meeting

135.—(1) A director who is present at a meeting of directors or committee of directors is deemed to have consented to any resolution passed or action taken thereat unless,

- (a) he requests that his dissent be or his dissent is entered in the minutes of the meeting;
- (b) he sends his written dissent to the secretary of the meeting before the meeting is terminated; or
- (c) he sends his dissent by registered mail or delivers it to the registered office of the corporation immediately after the meeting is terminated.

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented

thereto unless within seven days after he becomes aware of the resolution he,

- (a) causes his dissent to be placed with the minutes of the meeting; or
- (b) sends his dissent by registered mail or delivers it to the registered office of the corporation.

(4) A director is not liable under section 130 or 134 if he relies in good faith upon,

Entitled to rely on statements, etc.

- (a) financial statements of the corporation represented to him by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by him. R.S.O. 1980, c. 54, s. 135, *amended*.

136.—(1) A corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor, and his heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him in respect of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of such corporation or body corporate, if,

Indemnification of directors

- (a) he acted honestly and in good faith with a view to the best interests of the corporation; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he had reasonable grounds for believing that his conduct was lawful.

(2) A corporation may, with the approval of the court, indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour, to which he is made a party by reason of being or having been a director or an officer of the corporation or body corporate, against all costs, charges and

Idem

expenses reasonably incurred by him in connection with such action if he fulfils the conditions set out in clauses (1) (a) and (b).

Idem

(3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by him in connection with the defence of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of the corporation or body corporate, if the person seeking indemnity,

(a) was substantially successful on the merits in his defence of the action or proceeding; and

(b) fulfils the conditions set out in clauses (1) (a) and (b).

Liability
insurance

(4) A corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by him,

(a) in his capacity as a director or officer of the corporation, except where the liability relates to his failure to act honestly and in good faith with a view to the best interests of the corporation; or

(b) in his capacity as a director or officer of another body corporate where he acts or acted in that capacity at the corporation's request, except where the liability relates to his failure to act honestly and in good faith with a view to the best interests of the body corporate.

Application to
court

(5) A corporation or a person referred to in subsection (1) may apply to the court for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.

Idem

(6) Upon an application under subsection (5), the court may order notice to be given to any interested person and such person is entitled to appear and be heard in person or by counsel. R.S.O. 1980, c. 54, s. 145, *amended*.

Remuneration
of directors

137. Subject to the articles, the by-laws or any unanimous shareholder agreement, the directors of a corporation may fix the remuneration of the directors, officers and employees of the corporation. R.S.O. 1980, c. 54, s. 21 (1), *amended*.

PART X

INSIDER LIABILITY

138.—(1) In this Part,

Interpretation

(a) “corporation” means a corporation that is not an offering corporation;

(b) “insider” means, with respect to a corporation,

(i) the corporation,

(ii) an affiliate of the corporation,

(iii) a director or officer of the corporation,

(iv) a person who beneficially owns, directly or indirectly, more than 10 per cent of the voting securities of the corporation or who exercises control or direction over more than 10 per cent of the votes attached to the voting securities of the corporation,

(v) a person employed or retained by the corporation, or

(vi) a person who receives specific confidential information from a person described in this clause or in subsection (3), including a person described in this subclause, and who has knowledge that the person giving the information is a person described in this clause or in subsection (3), including a person described in this subclause;

(c) “security” includes a warrant.

(2) For the purposes of this Part,

Insider

(a) a director or officer of a body corporate that is an insider of a corporation is deemed to be an insider of the corporation;

(b) a director or officer of a body corporate that is a subsidiary is deemed to be an insider of its holding corporation;

- (c) a person is deemed to own beneficially shares beneficially owned by a body corporate controlled by him directly or indirectly; and
- (d) a body corporate is deemed to own beneficially shares beneficially owned by its affiliates.

Idem

(3) For the purposes of this Part,

- (a) where a body corporate becomes an insider of a corporation, or enters into a business combination with a corporation, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in subclause (1) (b) (iv) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he was a director, an officer or such a shareholder of the body corporate; and
- (b) where a corporation becomes an insider of a body corporate or enters into a business combination with a body corporate, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in subclause (1) (b) (iv) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he was a director, an officer or such a shareholder of the body corporate.

Business
combination

(4) In subsection (3), "business combination" means an acquisition of all or substantially all the property of one body corporate by another or an amalgamation of two or more bodies corporate.

Liability of
insider

(5) An insider who, in connection with a transaction in a security of the corporation or any of its affiliates, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of the security,

- (a) is liable to compensate any person for any direct loss suffered by that person as a result of the transaction, unless the information was known or in the exercise of reasonable diligence should have been known to that person; and
- (b) is accountable to the corporation for any direct benefit or advantage received or receivable by the insider as a result of the transaction.

(6) An action to enforce a right created by subsection (5) may be commenced only within two years after discovery of the facts that gave rise to the cause of action. *New.* Limitation period

PART XI

BOOKS AND RECORDS

139.—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device. Records

(2) The corporation shall,

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and Guard against falsification of records
- (b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein. Admissibility of records in evidence

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or, False information

- (a) record or assist in recording any information in a record; or
- (b) make information purporting to be accurate available in a form referred to in clause (2) (b),

knowing it to be untrue. R.S.O. 1980, c. 54, s. 149, *amended*.

140.—(1) A corporation shall prepare and maintain, at its registered office or at such other place in Ontario designated by the directors, Records

- (a) the articles and the by-laws and all amendments thereto, and a copy of any unanimous shareholder agreement known to the directors;
- (b) minutes of meetings and resolutions of shareholders;
- (c) a register of directors in which are set out the names and residence addresses, while directors, including the street

and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;

(d) a securities register complying with section 141.

Idem

(2) In addition to the records described in subsection (1), a corporation shall prepare and maintain,

(a) adequate accounting records; and

(b) records containing minutes of meetings and resolutions of the directors and any committee thereof,

but, provided the retention requirements of any taxing authority of Ontario, the government of Canada or any other jurisdiction to which the corporation is subject have been satisfied, the accounting records mentioned in clause (a) need only be retained by the corporation for six years from the end of the last fiscal period to which they relate.

Idem

(3) For the purposes of clause (1) (b) and subsection (2), where a body corporate is continued under this Act, "records" includes similar records required by law to be maintained by the body corporate before it was so continued. R.S.O. 1980, c. 54, ss. 150, 153, *amended*.

Securities
register

141.—(1) A corporation shall prepare and maintain at its registered office, or at any other place in Ontario designated by the directors, a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities,

(a) the names, alphabetically arranged of persons who,

(i) are or have been within six years registered as shareholders of the corporation, the address including the street and number, if any, of every such person while a holder, and the number and class of shares registered in the name of such holder,

(ii) are or have been within six years registered as holders of debt obligations of the corporation, the address including the street and number, if any, of every such person while a holder, and the class or series and principal amount of the debt obligations registered in the name of such holder, or

- (iii) are or have been within six years registered as holders of warrants of the corporation, other than warrants exercisable within one year from the date of issue, the address including the street and number, if any, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and

- (b) the date and particulars of the issue of each security and warrant. R.S.O. 1980, c. 54, s. 150, *amended*.

(2) A corporation shall cause to be kept a register of transfers ^{Register of transfers} in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out. R.S.O. 1980, c. 54, s. 151.

(3) In this section and in section 143, "registered form" has the ^{Interpretation} same meaning as in Part VI. *New*.

142. For each class of securities and warrants issued by it, ^{Transfer agents} a corporation may appoint,

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and, subject to section 48, one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities and warrants of the corporation or any class or classes thereof. R.S.O. 1980, c. 54, s. 152, *amended*.

143.—(1) The securities register and the register of transfers ^{Where registers to be kept} shall be kept at the registered office of a corporation or at such other places in Ontario designated by the directors, and the branch register or registers of transfers may be kept at such offices of the corporation or other places, either within or outside Ontario, designated by the directors.

(2) Registration of the transfer of a security or warrant of a ^{Valid registration} corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes.

Entry in
branch
transfer
register

(3) In each branch register of transfers there shall be recorded only the particulars of the transfers of securities or warrants registered in that branch register of transfers.

Entry in
register of
transfers

(4) Particulars of every transfer of securities and warrants registered in every branch register of transfers shall be recorded in the register of transfers.

Documents not
required to be
produced

(5) A corporation or a person appointed under section 142 is not required to produce,

(a) any security certificate or warrant that is not in registered form; or

(b) any security certificate or warrant that is in registered form after six years,

(i) in the case of a share certificate, from the date of its cancellation,

(ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or

(iii) in the case of a certificate representing a debt obligation, from the date of cancellation of such certificate. R.S.O. 1980, c. 54, s. 153, *amended*.

Records open
to examination
by directors

144.—(1) The records mentioned in sections 140 and 141 shall, during normal business hours of a corporation, be open to examination by any director and shall, except as provided in sections 140 and 143 and in subsections (2) and (3) of this section, be kept at the registered office of the corporation.

Records of
account at
branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the registered office of the corporation or such other place as is authorized under this section such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Order for
removal of
records

(3) Where a corporation,

(a) shows, to the satisfaction of the Director, the necessity of keeping all or any of the records mentioned in subsection (1) at a place other than the registered office of the corporation; and

- (b) gives the Director adequate assurance, by surety bond or otherwise, that such records will be open for examination,
 - (i) at the registered office or some other place in Ontario designated by the Director, and
 - (ii) by any person who is entitled to examine them and who has applied to the Director for such an examination,

the Director may, by order and upon such terms as he thinks fit, permit the corporation to keep all or any of them at such place or places, other than the registered office, as he thinks fit.

(4) The Director may by order upon such terms as he thinks fit rescind any order made under subsection (3) or any order made by the Lieutenant Governor in Council or the Minister under a predecessor of that subsection. R.S.O. 1980, c. 54, s. 154, *amended*. Rescission of orders made under subs. (3)

145.—(1) Shareholders and creditors of a corporation, their agents and legal representatives may examine the records referred to in subsection 140 (1) during the usual business hours of the corporation, and may take extracts therefrom, free of charge, and, where the corporation is an offering corporation, any other person may do so upon payment of a reasonable fee. Examination of records by shareholders and creditors

(2) A shareholder of a corporation is entitled upon request and without charge to one copy of the articles and by-laws and of any unanimous shareholder agreement. R.S.O. 1980, c. 54, s. 155, *amended*. Copy

146.—(1) Shareholders and creditors of a corporation, their agents and legal representatives and, where the corporation is an offering corporation, any other person, upon payment of a reasonable fee and upon sending to the corporation or its transfer agent the statutory declaration referred to in subsection (6), may require the corporation or its transfer agent to furnish a basic list setting out the names of the shareholders of the corporation, the number of shares of each class and series owned by each shareholder and the address of each shareholder, all as shown on the records of the corporation. List of shareholders

(2) The basic list referred to in subsection (1) shall be furnished to the applicant as soon as is practicable and, when furnished, shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained, but, in any case, shall be furnished not more than ten days following the receipt by the corporation or its transfer agent of the statutory Idem

declaration referred to in subsection (1) and shall be made up to a date not more than ten days before the date on which it is actually furnished.

Supplemental
lists

(3) A person requiring a corporation to supply a basic list may, if he states in the statutory declaration referred to in subsection (1) that he requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the shareholders and the number of shares owned by each shareholder for each business day following the date to which the basic list is made up.

Idem

(4) The corporation or its agent shall furnish a supplemental list required under subsection (3),

- (a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and
- (b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

List of
option holders

(5) A person requiring a corporation to supply a basic or supplemental list may also require the corporation to include in that list the name and address of any known holder of an option or right to acquire shares of the corporation.

Statutory
declaration

(6) The statutory declaration required under subsection (1) shall state,

- (a) the name and address including street and number, if any, of the applicant and whether the applicant is a shareholder, creditor or any other person referred to in the subsection;
- (b) the name and address including street and number, if any, for service of the body corporate if the applicant is a body corporate; and
- (c) that the basic list and any supplemental lists shall be used only as permitted under subsection (8).

Idem

(7) If the applicant is a body corporate, the statutory declaration shall be made by a director or officer of the body corporate.

Use of list

(8) A list of shareholders obtained under this section shall not be used by any person except in connection with,

- (a) an effort to influence the voting by shareholders of the corporation;
- (b) an offer to acquire shares of the corporation; or
- (c) any other matter relating to the affairs of the corporation. R.S.O. 1980, c. 54, s. 156, *amended*.

147. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities or warrants of a corporation. R.S.O. 1980, c. 54, s. 158, *amended*. Trafficking
in lists

PART XII

AUDITORS AND FINANCIAL STATEMENTS

148.—(1) In respect of a financial year of a corporation, the corporation is exempt from the requirements of this Part regarding the appointment and duties of an auditor, Exemption
from audit
requirements

(a) where,

- (i) the corporation is not an offering corporation,
- (ii) all of the shareholders of the corporation consent thereto in writing in respect of that year, and
- (iii) the corporation has assets not exceeding \$2,500,000 and sales or gross operating revenues not exceeding \$5,000,000 as shown on the financial statement of the corporation for the preceding year; or


(b) where the corporation has been exempted by the Director under subsection (2) in respect of that financial year.



(2) A corporation other than an offering corporation, all the shareholders of which consent thereto in writing, may apply to the Director for exemption from the requirements of this Part regarding the appointment and duties of an auditor in respect of a financial year, by filing an application in prescribed form together with such documents as may be prescribed, and after giving to the corporation and to such other persons whom he considers should be given the opportunity, an opportunity to be heard, the Director may, subject to the regulations, and upon such terms and conditions as he may impose, exempt the corporation and any of its affiliates from the audit requirements of this Part where, in his opinion to do so would not be prejudicial to the public interest. Idem

(3) For the purposes of subclause (1) (a) (iii), the assets and sales or gross operating revenues of a corporation include the Interpre-
tation

R.S.C. 1952,
c. 148

assets and sales or gross operating revenues of each of its affiliates resident in Canada for the purposes of the *Income Tax Act* (Canada). R.S.O. 1980, c. 54, s. 161, *amended*. 

Auditors

149.—(1) The shareholders of a corporation at their first annual or special meeting shall appoint one or more auditors to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.

Idem

(2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual
vacancy

(3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of
auditor

(4) The shareholders may, except where the auditor has been appointed by order of the court under subsection (8), by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Notice to
auditor

(5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

(a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right of
auditor to
make
representations

(6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,

(a) his proposed removal as auditor;

(b) the appointment or election of another person to fill the office of auditor; or

(c) his resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors. Remuneration

(8) If a corporation does not have an auditor, the court may, upon the application of a shareholder or the Director, appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders. Appointment by court

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. Notice of appointment
R.S.O. 1980, c. 54, s. 161, *amended*.

150.—(1) The auditor of a corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, to attend and be heard thereat on matters relating to his duties as auditor. Auditor may attend shareholders' meetings

(2) If any director or shareholder of a corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, not less than five days or more before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting at the expense of the corporation and answer questions relating to his duties as auditor. Auditor's attendance may be required

(3) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation. Notice to corporation

(4) No person shall accept appointment or consent to be appointed as auditor of a corporation if he is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until he has requested and received from that auditor a written statement of the circumstances and the reasons why, in that auditor's opinion, he is to be replaced. Replacing auditor

(5) Notwithstanding subsection (4), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, he does not receive a reply. Idem

(6) Any interested person may apply to the court for an order declaring an auditor to be disqualified and the office of auditor to Idem

be vacant if the auditor has not complied with subsection (4), unless subsection (5) applies with respect to the appointment of the auditor.

Statement by
auditor
privileged

(7) Any oral or written statement or report made under this Act by the auditor or former auditor of the corporation has qualified privilege. R.S.O. 1980, c. 54, s. 164, *part, amended*.

Disqualification
as auditor

151.—(1) Subject to subsection (5), a person is disqualified from being an auditor of a corporation if he is not independent of the corporation, all of its affiliates, or of the directors or officers of the corporation and its affiliates.

Independence

(2) For the purposes of this section,

(a) independence is a question of fact; and

(b) a person is deemed not to be independent if he or his business partner,

(i) is a business partner, director, officer or employee of the corporation or any of its affiliates, or a business partner of any director, officer or employee of the corporation or any of its affiliates,

(ii) beneficially owns directly or indirectly or exercises control or direction over a material interest in the securities of the corporation or any of its affiliates, or

(iii) has been a receiver, receiver and manager, liquidator or trustee in bankruptcy of the corporation or any of its affiliates within two years of his proposed appointment as auditor of the corporation.

Resignation
by auditor

(3) An auditor who becomes disqualified under this section shall, subject to subsection (5), resign forthwith upon becoming aware of his disqualification.

Application to
court

(4) An interested person may apply to the court for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant.

Idem

(5) An interested person may apply to the court for an order exempting an auditor from disqualification under this section and the court may, if it is satisfied that an exemption would not unfairly prejudice the shareholders, make an exemption order on

such terms as it thinks fit, which order may have retrospective effect. R.S.O. 1980, c. 54, s. 163, *amended*.

152.—(1) An auditor of a corporation shall make such examination of the financial statements required by this Act to be placed before shareholders as is necessary to enable him to report thereon and he shall report as prescribed and in accordance with generally accepted auditing standards. Examination
by auditor

(2) A director or an officer of a corporation shall forthwith notify the audit committee and the auditor or the former auditor of any error or misstatement of which he becomes aware in a financial statement that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be significant. Reporting error

(3) If the auditor or former auditor of a corporation is notified or becomes aware of an error or misstatement in a financial statement upon which he has reported, and if in his opinion the error or misstatement is material, he shall inform each director accordingly. Idem

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall within a reasonable time, Amendment of
auditor's report

- (a) prepare and issue revised financial statements; or
- (b) otherwise inform the shareholders.

(5) Upon the demand of an auditor of a corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such, Right of access

- (a) information and explanations; and
- (b) access to records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable him to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish.

(6) Upon the demand of the auditor of a corporation, the directors of the corporation shall, Furnishing
information

- (a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or

former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable him to make the examination and report required under this section; and

- (b) furnish the information and explanations so obtained to the auditor.

Idem

(7) Any oral or written communication under this section between the auditor or former auditor of a corporation and its present or former directors, officers, employees or agents or those of any subsidiary of the corporation, has qualified privilege. R.S.O. 1980, c. 54, s. 164, *part, amended*.

Information to
be laid before
annual meeting

153.—(1) The directors shall place before each annual meeting of shareholders,

- (a) in the case of a corporation that is not an offering corporation, financial statements for the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting;

- (b) in the case of a corporation that is an offering corporation, the financial statements required to be filed under the *Securities Act* and the regulations thereunder relating separately to,

R.S.O. 1980,
c. 466

- (i) the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, and

- (ii) the immediately preceding financial year if any;

- (c) the report of the auditor, if any, to the shareholders; and

- (d) any further information respecting the financial position of the corporation and the results of its operations required by the articles, the by-laws or any unanimous shareholder agreement.

Auditor's
report

(2) Except as provided in subsection 104 (1), the report of the auditor to the shareholders shall be open to inspection at the annual meeting by any shareholder.

(3) A corporation shall, not less than twenty-one days, in the case of an offering corporation, and ten days, in the case of a corporation that is not an offering corporation, before each annual meeting of shareholders or before the signing of a resolution under clause 104 (1) (b) in lieu of the annual meeting, send a copy of the documents referred to in this section to each shareholder, except to a shareholder who has informed the corporation in writing that he does not wish to receive a copy of those documents. R.S.O. 1980, c. 54, s. 165, *amended*.

Copy of
documents to
shareholders

154. The financial statements required under this Act shall be prepared as prescribed by regulation and in accordance with generally accepted accounting principles. *New*.

Preparation of
financial
statements

155. An offering corporation shall prepare and file with the Commission the financial statements required under Part XVII of the *Securities Act*. *New*.

Filing by
offering
corporation
R.S.O. 1980,
c. 466

156.—(1) True copies of the latest financial statements of each subsidiary of a holding corporation shall be kept on hand by the holding corporation at its registered office and shall be open to examination by the shareholders of the holding corporation and their agents and legal representatives who may make extracts therefrom free of charge on request during the normal business hours of the holding corporation.

Financial
statements of
subsidiaries

(2) A corporation may, within fifteen days after a request to examine under subsection (1), apply to the court for an order barring the right of any person to so examine, and the court may, if satisfied that such examination would be detrimental to the corporation or a subsidiary body corporate, bar such right and make any further order it thinks fit. R.S.O. 1980, c. 54, s. 170 (3), *amended*.

Application to
court

157.—(1) A corporation that is an offering corporation shall, and any other corporation may, have an audit committee composed of not fewer than three directors of the corporation, a majority of whom are not officers or employees of the corporation or any of its affiliates, to hold office until the next annual meeting of the shareholders.

Audit
committee

(2) An audit committee shall review the financial statements of the corporation and shall report thereon to the board of directors of the corporation before such financial statements are approved under section 158.

Idem

(3) The auditor of a corporation is entitled to receive notice of every meeting of the audit committee and, at the expense of the corporation, to attend and be heard thereat, and, if so requested

Auditor may
attend
committee
meetings

by a member of the audit committee, shall attend every meeting of the committee held during the term of office of the auditor.

Calling
meetings of
committee

(4) The auditor of a corporation or a member of the audit committee may call a meeting of the committee.

Right of
auditor to be
heard

(5) The auditor of a corporation shall be entitled to attend at the expense of the corporation and be heard at meetings of the board of directors of the corporation on matters relating to his duties as auditor. R.S.O. 1980, c. 54, s. 173, *amended*.

Approval by
directors

158.—(1) The financial statements shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign or by the director where there is only one, and the auditor's report, unless the corporation is exempt under section 148, shall be attached to or accompany the financial statements. R.S.O. 1980, c. 54, s. 174.

Publishing,
etc., copies of
financial
statements

(2) A corporation shall not issue, publish or circulate copies of the financial statements referred to in section 153 unless the financial statements are,

(a) approved and signed in accordance with subsection (1);
and

(b) accompanied by the report of the auditor of the corporation, if any. *New*.

Interim
financial
statement
R.S.O. 1980,
c. 466

159.—(1) An offering corporation shall send to each shareholder a copy of an interim financial statement required to be filed under the *Securities Act* and the regulations thereunder.

Idem

(2) The interim financial statement required by subsection (1) shall be sent to each shareholder, within sixty days of the date to which it is made up, at his latest address as shown on the records of the corporation. R.S.O. 1980, c. 54, s. 176.

PART XIII

INVESTIGATION

Investigation

160.—(1) A security holder of a corporation and, in the case of an offering corporation, the Commission may apply, *ex parte* or upon such notice as the court may require, to the court for an order directing an investigation to be made of the corporation and any of its affiliates.

(2) Where, upon an application under subsection (1), it *Idem* appears to the court that,

- (a) the business of the corporation or any of its affiliates is or has been carried on with intent to defraud any person;
- (b) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to, or that unfairly disregards, the interests of a security holder;
- (c) the corporation or any of its affiliates was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or
- (d) persons concerned with the formation, business or affairs of the corporation or any of its affiliates have in connection therewith acted fraudulently or dishonestly,

the court may order an investigation to be made of the corporation and any of its affiliates.

(3) Where a security holder makes an application under subsection (1), he shall give the Director and, if the corporation is an offering corporation, the Commission, reasonable notice thereof and the Director and, if the corporation is an offering corporation, the Commission are entitled to appear and be heard in person or by counsel. *Notice*

(4) An applicant under this section is not required to give security for costs. *Security for costs not required*

(5) An *ex parte* application under this section shall be heard *in camera*. *Ex parte application*

(6) No person may publish anything relating to *ex parte* proceedings under this section except with the authorization of the court or the written consent of the corporation being investigated. R.S.O. 1980, c. 54, s. 177, *part, amended*. *No publication without consent*

161.—(1) In connection with an investigation under this Part, the court may make any order it thinks fit including, without limiting the generality of the foregoing, *Matters that may be covered by court order*

- (a) an order to investigate;
- (b) an order appointing and fixing the remuneration of an inspector or replacing an inspector;

- (c) an order determining the notice to be given to any interested person, or dispensing with notice to any person;
- (d) an order authorizing an inspector to enter any premises in which the court is satisfied there might be relevant information, and to examine any thing and make copies of any document or record found on the premises;
- (e) an order requiring any person to produce documents or records to the inspector;
- (f) an order authorizing an inspector to conduct a hearing, administer oaths and examine any person upon oath, and prescribing rules for the conduct of the hearing;
- (g) an order requiring any person to attend a hearing conducted by an inspector and to give evidence upon oath;
- (h) an order giving directions to an inspector or any interested person on any matter arising in the investigation;
- (i) an order requiring an inspector to make an interim or final report to the court;
- (j) an order determining whether a report of an inspector should be made available for public inspection and ordering that copies be sent to any person the court designates;
- (k) an order requiring an inspector to discontinue an investigation;
- (l) an order requiring the corporation to pay the costs of the investigation.

Inspector's
report

(2) An inspector shall send to the Director and, where an offering corporation is involved, the Commission, a copy of every report made by the inspector under this Part which, subject to clause (1) (j), shall be placed on the corporation file for public inspection. R.S.O. 1980, c. 54, s. 177, *part, amended*.

Powers of
inspector

162.—(1) An inspector under this Part has the powers set out in the order appointing him.

(2) In addition to the powers set out in the order appointing ^{Idem} him, an inspector appointed to investigate a corporation may furnish to, or exchange information and otherwise co-operate with, any public official in Canada or elsewhere who is authorized to exercise investigatory powers and who is investigating, in respect of the corporation, any allegation of improper conduct that is the same as, or similar to, the conduct described in subsection 160 (2).

(3) An inspector shall produce upon request to an interested ^{Production of order} person a copy of any order made under subsection 161 (1). R.S.O. 1980, c. 54, s. 177 (1), *amended*.

163.—(1) Any interested person may apply to the court for ^{Hearing in camera} an order that a hearing conducted under this Part be heard *in camera* and for directions on any matter arising in the investigation.

(2) A person whose conduct is being investigated or who is ^{Right to counsel} being examined at a hearing conducted by an inspector under this Part has a right to be represented by counsel. *New*.

164. Any oral or written statement or report made by an ^{Privileged statements} inspector or any other person in an investigation under this Part has absolute privilege. *New*.

165. Nothing in this Part shall be construed to affect the ^{Solicitor-client privilege} privilege that exists in respect of communications between a solicitor and his client. *New*.

166. The Director may make inquiries of any person relating ^{Inquiries by Director} to compliance with this Act. *New*.

PART XIV

FUNDAMENTAL CHANGES

167.—(1) Subject to sections 169 and 170, a corporation may ^{Amendments} from time to time amend its articles to add, change or remove any provision that is permitted by this Act to be, or that is, set out in its articles, including without limiting the generality of the foregoing, to,

(a) change its name;

- (b) change the municipality or geographic township in which its registered office is located;
- (c) add, change or remove any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (d) add, change or remove any maximum number of shares that the corporation is authorized to issue or any maximum consideration for which any shares of the corporation are authorized to be issued;
- (e) create new classes of shares;
- (f) increase or reduce its stated capital which, for the purposes of the amendment, is deemed to be set out in the articles;
- (g) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrued dividends, in respect of all or any of its shares, whether issued or unissued;
- (h) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (i) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (j) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (k) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series;
- (l) revoke, diminish or enlarge any authority conferred under clauses (j) and (k);

(m) subject to sections 120 and 125, increase or decrease the number, or minimum or maximum number, of directors; and

(n) add, change or remove restrictions on the issue, transfer or ownership of shares of any class or series.

(2) The directors of a corporation may, if so authorized by a special resolution effecting an amendment under this section, revoke the resolution without further approval of the shareholders at any time prior to the endorsement by the Director of a certificate of amendment of articles in respect of such amendment. Revocation of resolution

(3) Notwithstanding subsection (1), where a corporation has a number name, the directors may amend its articles to change that name to a name that is not a number name. Change of number name

(4) An amendment under subsection (1) shall be authorized by a special resolution and an amendment under subsection (3) may be authorized by a resolution of the directors. Authorization

(5) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act, including a corporation to which *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, applies, may under this section amend its articles to change its name. R.S.O. 1980, c. 54, s. 180, *part, amended*. Special Act corporations excepted

168.—(1) The directors or any shareholder who is entitled to vote at an annual meeting of shareholders may, in accordance with section 99, make a proposal to amend the articles. Proposal to amend articles

(2) Notice of a meeting of shareholders at which a proposal to amend the articles is to be considered shall set out the proposed amendment and, where applicable, shall state that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an amendment. *New*. Idem

169.—(1) The holders of shares of a class or, subject to subsection (2), of a series are, unless the articles otherwise provide in the case of an amendment referred to in clause (a), (b) or (e), entitled to vote separately as a class or series upon a proposal to amend the articles to, Authorization for variation of rights of special shareholders

(a) increase or decrease any maximum number of authorized shares of such class or series, or increase any maximum number of authorized shares of a class or series having rights or privileges equal or superior to the shares of such class or series;

(b) effect an exchange, reclassification or cancellation of the shares of such class or series;

- (c) add to, remove or change the rights, privileges, restrictions or conditions attached to the shares of such class or series and, without limiting the generality of the foregoing,
 - (i) remove or change prejudicially rights to accrued dividends or rights to cumulative dividends,
 - (ii) add, remove or change prejudicially redemption rights or sinking fund provisions,
 - (iii) reduce or remove a dividend preference or a liquidation preference, or
 - (iv) add, remove or change prejudicially conversion privileges, options, voting, transfer or pre-emptive rights, or rights to acquire securities of a corporation;
- (d) add to the rights or privileges of any class or series of shares having rights or privileges equal or superior to the shares of such class or series;
- (e) create a new class or series of shares equal or superior to the shares of such class or series, except in the case of a series under section 25;
- (f) make any class or series of shares having rights or privileges inferior to the shares of such class or series equal or superior to the shares of such class or series;
- (g) effect an exchange or create a right of exchange of the shares of another class or series into the shares of such class or series; or
- (h) add, remove or change restrictions on the issue, transfer or ownership of the shares of such class or series.

Idem

(2) The holders of a series of shares of a class are entitled to vote separately as a series under subsection (1) only if such series is affected by an amendment in a manner different from other shares of the same class.

Idem

(3) Subsection (1) applies whether or not shares of a class or series otherwise carry the right to vote.

Idem

(4) A proposed amendment to the articles referred to in subsection (1) is adopted when the shareholders have approved the amendment by a special resolution of the holders of the shares of each class or series entitled to vote thereon. R.S.O. 1980, c. 54, s. 180, *part, amended*.



(5) Subsection (1) does not apply in respect of a proposal to amend the articles to add a right or privilege for a holder to convert shares of a class or series into shares of another class or series that is subject to restrictions described in clause 42 (2) (d) but is otherwise equal to the class or series first mentioned. Exception

(6) For the purpose of clause (1) (e), a new class of shares, the issue, transfer or ownership of which is to be restricted by an amendment to the articles for the purpose of clause 42 (2) (d) that is otherwise equal to an existing class of shares shall be deemed not to be equal or superior to the existing class of shares. Deeming provision



170.—(1) Articles of amendment in prescribed form shall be sent to the Director. Articles of amendment sent to Director

(2) If an amendment effects or requires a reduction of stated capital, subsections 34 (4) and (5) apply. Application of s. 34 (4, 5)

(3) No corporation shall change its name if, Change of name

(a) the corporation is unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets is less than the aggregate of its liabilities. R.S.O. 1980, c. 54, s. 181, *amended*.

171. Upon receipt of articles of amendment, the Director shall endorse thereon in accordance with section 272 a certificate of amendment. R.S.O. 1980, c. 54, s. 182, *amended*. Certificate of amendment

172.—(1) The directors may at any time restate the articles of incorporation as amended. Restated articles of incorporation

(2) Restated articles of incorporation in prescribed form shall be sent to the Director. Idem

(3) Upon receipt of restated articles of incorporation, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the restated certificate of incorporation. Restated certificate of incorporation

(4) Restated articles of incorporation supersede the original articles of incorporation and all amendments thereto. R.S.O. 1980, c. 54, s. 183, *amended*. Idem

Amalgamation **173.** Two or more corporations, including holding or subsidiary corporations, may amalgamate and continue as one corporation. R.S.O. 1980, c. 54, s. 187 (1).

Amalgamation agreement **174.**—(1) Where corporations propose to amalgamate, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation and, in particular, setting out,

(a) the provisions that are required to be included in articles of incorporation under section 5;

(b) subject to subsection (2), the basis upon which and manner in which the holders of the issued shares of each amalgamating corporation are to receive,

(i) securities of the amalgamated corporation,

(ii) money, or

(iii) securities of any body corporate other than the amalgamated corporation,

in the amalgamation;

(c) the manner of payment of money instead of the issue of fractional shares of the amalgamated corporation or of any other body corporate the securities of which are to be received in the amalgamation;

(d) whether the by-laws of the amalgamated corporation are to be those of one of the amalgamating corporations and the address where a copy of the proposed by-laws may be examined; and

(e) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation. R.S.O. 1980, c. 54, s. 187 (2), *amended*.

Shares of
amalgamating
corporation
held by
another

(2) Where shares of one of the amalgamating corporations are held by or on behalf of another of the amalgamating corporations, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into

shares of the amalgamated corporation. R.S.O. 1980, c. 54, s. 187 (3).

175.—(1) The directors of each amalgamating corporation shall submit the amalgamation agreement for approval at a meeting of the shareholders of the amalgamating corporation of which they are directors and, subject to subsection (3), of the holders of shares of each class or series entitled to vote thereon. Submission of amalgamation agreement

(2) The notice of the meeting of shareholders of each amalgamating corporation shall include or be accompanied by, Notice of meeting

- (a) a copy or summary of the amalgamation agreement; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an amalgamation.

(3) The holders of a class or series of shares of an amalgamating corporation, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect of an amalgamation if the amalgamation agreement contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 169. Voting by class, etc.

(4) An amalgamation agreement is adopted when the shareholders of each amalgamating corporation have approved of the amalgamation by a special resolution of the holders of the shares of each class or series entitled to vote thereon. Adoption of amalgamation agreement

(5) An amalgamation agreement may provide that at any time before the endorsement of a certificate of amalgamation the agreement may be terminated by the directors of an amalgamating corporation, notwithstanding approval of the agreement by the shareholders of all or any of the amalgamating corporations. Termination of agreement
New.

176.—(1) A holding corporation and one or more of its wholly-owned subsidiary corporations may amalgamate and continue as one corporation without complying with sections 174 and 175 if, Amalgamation of holding corporation and its subsidiary

- (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and
- (b) the resolutions provide that,
 - (i) the shares of each amalgamating subsidiary corporation shall be cancelled without any repayment of capital in respect thereof,

- (ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating holding corporation, and
- (iii) no securities shall be issued and no assets shall be distributed by the amalgamated corporation in connection with the amalgamation.

Amalgamation
of
subsidiaries

(2) Two or more wholly-owned subsidiary corporations of the same holding body corporate may amalgamate and continue as one corporation without complying with sections 174 and 175 if,

- (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and
- (b) the resolutions provide that,
 - (i) the shares of all but one of the amalgamating subsidiary corporations shall be cancelled without any repayment of capital in respect thereof,
 - (ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating subsidiary corporation whose shares are not cancelled, and
 - (iii) the stated capital of the amalgamating subsidiary corporations whose shares are cancelled shall be added to the stated capital of the amalgamating subsidiary corporation whose shares are not cancelled. *New.*

Articles of
amalgamation
to be sent to
Director

177.—(1) Subject to subsection 175 (5), after an amalgamation has been adopted under section 175 or approved under section 176, articles of amalgamation in prescribed form shall be sent to the Director.

Director's
statement

(2) The articles of amalgamation shall have attached thereto a statement of a director or an officer of each amalgamating corporation stating that,

- (a) there are reasonable grounds for believing that,
 - (i) each amalgamating corporation is and the amalgamated corporation will be able to pay its liabilities as they become due, and

- (ii) the realizable value of the amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital of all classes;
 - (b) there are reasonable grounds for believing that,
 - (i) no creditor will be prejudiced by the amalgamation, or
 - (ii) adequate notice has been given to all known creditors of the amalgamating corporations;
 - (c) the grounds upon which the objections of all creditors who have notified the corporation that they object to the amalgamation, setting forth with reasonable particularity the grounds for such objections, are either frivolous or vexatious; and
 - (d) the corporation has given notice to each person who has, in the manner referred to in clause (c), notified the corporation of his objection to the amalgamation, that,
 - (i) the grounds upon which his objection is based are considered to be frivolous or vexatious, and
 - (ii) a creditor of a corporation who objects to an amalgamation has the status of a complainant under section 247.
- (3) For the purposes of subsection (2), adequate notice is given ^{Notice} if,
- (a) a notice in writing is sent to each known creditor having a claim against the corporation that exceeds \$2,500, at the last address of the creditor known to the corporation;
 - (b) a notice is published once in a newspaper published or distributed in the place where the corporation has its registered office; and
 - (c) each notice states that the corporation intends to amalgamate with one or more specified corporations in accordance with this Act unless a creditor of the corporation objects to the amalgamation within thirty days from the date of the notice.
- (4) Upon receipt of articles of amalgamation, the Director shall ^{Certificate of amalgamation} endorse thereon in accordance with section 272 a certificate which

shall constitute the certificate of amalgamation. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Effect of
certificate

178. Upon the articles of amalgamation becoming effective,

- (a) the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions prescribed in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (c) a conviction against, or ruling, order or judgment in favour or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (d) the articles of amalgamation are deemed to be the articles of incorporation of the amalgamated corporation and, except for the purposes of subsection 117 (1), the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated corporation;
- (e) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against an amalgamating corporation before the amalgamation has become effective. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Articles of
continuance

179.—(1) A body corporate incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Director to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Director for a certificate of continuance. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Idem

(2) Articles of continuance in prescribed form shall be sent to the Director together with any other prescribed documents.

Amendments
to original
articles

(3) The articles of continuance shall make any amendments to the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which the body corporate was incorporated and any amendments thereto necessary to make the articles of continuance conform to the laws of Ontario, and may

make such other amendments as would be permitted under this Act if the body corporate were incorporated under the laws of Ontario, provided that at least the same shareholder approval has been obtained for such other amendments as would have been required under this Part if the body corporate were incorporated under the laws of Ontario. R.S.O. 1980, c. 54, s. 189 (1), *part, amended*.

(4) Upon receipt of articles of continuance and any other prescribed documents, the Director may, on such terms and subject to such limitations and conditions as he considers proper, endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of continuance.

Endorsement
of certificate
of continuance

(5) Upon the articles of continuance becoming effective,

Effect of
certificate

- (a) the body corporate becomes a corporation to which this Act applies as if it had been incorporated under this Act;
- (b) the articles of continuance are deemed to be the articles of incorporation of the continued corporation; and
- (c) except for the purposes of subsection 117 (1), the certificate of continuance is deemed to be the certificate of incorporation of the continued corporation.

(6) The Director shall send a copy of the certificate of continuance to the appropriate official or public body in the jurisdiction in which continuance under the Act was authorized. R.S.O. 1980, c. 54, s. 189, *part, amended*.

Copy of certificate of continuance

(7) When a body corporate is continued as a corporation under this Act,

Rights,
liabilities, etc.,
preserved

- (a) the corporation possesses all the property, rights, privileges and franchises and is subject to all the liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of the body corporate;
- (b) a conviction against, or ruling, order or judgment in favour of or against, the body corporate may be enforced by or against the corporation; and
- (c) the corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against the body corporate. R.S.O. 1980, c. 54, s. 191, *amended*.

Shares issued
before body
corporate con-
tinued under
this Act

(8) Subject to subsection 56 (3), a share of a body corporate issued before the body corporate was continued under this Act shall be deemed to have been issued in compliance with this Act and with the provisions of the articles of continuance, irrespective that the share is not fully paid and of any designation, rights, privileges, restrictions or conditions set out on or referred to in the certificate representing the share, and continuance under this section does not deprive a holder of any right or privilege that he claims under, or relieve him of any liability in respect of, an issued share. *New.*

Transfer of
Ontario cor-
porations

180.—(1) Subject to subsection (9), a corporation may, if it is authorized by the shareholders and the Director in accordance with this section, apply to the appropriate official or public body of another jurisdiction requesting that the corporation be continued as if it had been incorporated under the laws of that other jurisdiction.

Notice to
shareholders

(2) The notice of the meeting of shareholders shall include or be accompanied by a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an authorization under clause (3) (a).

Application for
continuance

(3) An application for continuance becomes authorized,

(a) by the shareholders when the shareholders voting thereon have approved of the continuance by a special resolution; and

(b) by the Director when, following receipt from the corporation of an application in prescribed form, he endorses an authorization on the application.

Authorization
by Director

(4) The Director may endorse the authorization if he is satisfied that the application is not prohibited by subsection (9).

Abandoning
application

(5) The directors of a corporation may, if authorized by the shareholders, abandon an application without further approval of the shareholders.

Time limit
to Director's
authorization

(6) The authorization of the Director for an application for continuance expires ninety days after the date of endorsement of the authorization unless, within the ninety day period, the corporation is continued under the laws of the other jurisdiction.

Filing
instrument
of
continuance

(7) The corporation shall file with the Director a copy of the instrument of continuance issued to it by the other jurisdiction within sixty days after the date of issuance.

(8) This Act ceases to apply to the corporation on the date upon which the corporation is continued under the laws of the other jurisdiction. Effective date

(9) A corporation shall not apply under subsection (1) to be continued as a body corporate under the laws of another jurisdiction unless those laws provide in effect that, Continuance in outside jurisdiction

- (a) the property of the corporation continues to be the property of the body corporate;
- (b) the body corporate continues to be liable for the obligations of the corporation;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the corporation may be continued to be prosecuted by or against the body corporate; and
- (e) a conviction against the corporation may be enforced against the body corporate or a ruling, order or judgment in favour of or against the corporation may be enforced by or against the body corporate. R.S.O. 1980, c. 54, s. 190, *amended*.

181.—(1) In this section, “arrangement”, with respect to a corporation, includes, Arrangement

- (a) a reorganization of the shares of any class or series of the corporation or of the stated capital of any such class or series;
- (b) the addition to or removal from the articles of the corporation of any provision that is permitted by this Act to be, or that is, set out in the articles or the change of any such provision;
- (c) an amalgamation of the corporation with another corporation;
- (d) an amalgamation of a body corporate with a corporation that results in an amalgamated corporation subject to this Act;
- (e) a transfer of all or substantially all the property of the corporation to another body corporate in exchange for securities, money or other property of the body corporate;

(f) an exchange of securities of the corporation held by security holders for other securities, money or other property of the corporation or securities, money or other property of another body corporate that is not a take-over bid as defined in Part XIX of the *Securities Act*;

R.S.O. 1980,
c. 466

(g) a liquidation or dissolution of the corporation;

(h) any other reorganization or scheme involving the business or affairs of the corporation or of any or all of the holders of its securities or of any options or rights to acquire any of its securities that is, at law, an arrangement; and

(i) any combination of the foregoing. R.S.O. 1980, c. 54, s. 184 (1), *amended*.

Scheme of
arrangement

(2) A corporation proposing an arrangement shall prepare, for the approval of the shareholders, a statement thereof setting out in detail what is proposed to be done and the manner in which it is proposed to be done.

Adoption of
arrangement

(3) Subject to any order of the court made under subsection (5), where an arrangement has been approved by shareholders of a corporation and by holders of shares of each class or series entitled to vote separately thereon, in each case by special resolution, the arrangement shall have been adopted by the shareholders of the corporation and the corporation may apply to the court for an order approving the arrangement.

Separate
votes

(4) The holders of shares of a class or series of shares of a corporation are not entitled to vote separately as a class or series in respect of an arrangement unless the statement of the arrangement referred to in subsection (2) contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 169 and, if the statement of the arrangement contains such a provision, such holders are entitled to vote separately on the arrangement whether or not such shares otherwise carry the right to vote.

Application
to court

(5) The corporation may, at any time, apply to the court for advice and directions in connection with an arrangement or proposed arrangement and the court may make such order as it considers appropriate, including, without limiting the generality of the foregoing,

(a) an order determining the notice to be given to any interested person or dispensing with notice to any person;

- (b) an order requiring a corporation to call, hold and conduct an additional meeting of, or to hold a separate vote of, all or any particular group of holders of any securities or warrants of the corporation in such manner as the court directs;
- (c) an order permitting a shareholder to dissent under section 184 if the arrangement is adopted;
- (d) an order appointing counsel, at the expense of the corporation, to represent the interests of shareholders;
- (e) an order that the arrangement or proposed arrangement shall be deemed not to have been adopted by the shareholders of the corporation unless it has been approved by a specified majority that is greater than two-thirds of the votes cast at a meeting of the holders, or any particular group of holders, of securities or warrants of the corporation; and
- (f) an order approving the arrangement as proposed by the corporation or as amended in any manner the court may direct, subject to compliance with such terms and conditions, if any, as the court thinks fit,

and to the extent that any such order is inconsistent with a provision of this section such order shall prevail.

(6) Where a reorganization or scheme is proposed as an arrangement and involves an amendment of the articles of a corporation or the taking of any other steps that could be made or taken under any other provision of this Act, the procedure provided for in this section, and not the procedure provided for in such other provision, applies to such reorganization or scheme. Procedure

(7) Where an amendment of articles is proposed to be made under section 167 that could be made under this section, the procedure provided for in section 167 and not the procedure provided for in this section applies in respect of the amendment. Idem

(8) An applicant under this section shall give the Director notice of the application, and the Director is entitled to appear and be heard in person or by counsel. R.S.O. 1980, c. 54, s. 185 (2-8), *amended*. Director entitled to be heard

182.—(1) After an order referred to in clause 181 (5) (f) has been made, articles of arrangement in prescribed form shall be sent to the Director. Articles of arrangement sent to Director

Certificate of
arrangement

(2) Upon receipt of articles of arrangement the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of arrangement. *New.*

Borrowing
powers

183.—(1) Unless the articles or by-laws of or a unanimous shareholder agreement otherwise provide, the articles of a corporation shall be deemed to state that the directors of a corporation may, without authorization of the shareholders,

- (a) borrow money upon the credit of the corporation;
- (b) issue, reissue, sell or pledge debt obligations of the corporation;
- (c) subject to section 20, give a guarantee on behalf of the corporation to secure performance of an obligation of any person; and
- (d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any obligation of the corporation.

Delegation of
powers

(2) Unless the articles or by-laws of or a unanimous shareholder agreement relating to a corporation otherwise provide, the directors may by resolution delegate any or all of the powers referred to in subsection (1) to a director, a committee of directors or an officer. R.S.O. 1980, c. 54, s. 51, *amended*.

Sale, etc.,
requires
approval of
shareholders

(3) A sale, lease or exchange of all or substantially all the property of a corporation other than in the ordinary course of business of the corporation requires the approval of the shareholders in accordance with subsections (4) to (8).

Notice

(4) The notice of a meeting of shareholders to approve a transaction referred to in subsection (3) shall include or be accompanied by,

- (a) a copy or summary of the agreement of sale, lease or exchange; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate a sale, lease or exchange referred to in subsection (3).



(5) At the meeting referred to in subsection (4), the shareholders may authorize the sale, lease or exchange and may fix or authorize the directors to fix any of the terms and conditions thereof. Shareholders may authorize sale, etc.

(6) If a sale, lease or exchange by a corporation referred to in subsection (3) would affect a particular class or series of shares of the corporation in a manner different from the shares of another class or series of the corporation entitled to vote on the sale, lease or exchange at the meeting referred to in subsection (4), the holders of such first mentioned class or series of shares, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect to such sale, lease or exchange. Right to vote separately

(7) The approval of a sale, lease or exchange referred to in subsection (3) is effective when the shareholders have approved the sale, lease or exchange by a special resolution of the holders of the shares of each class or series entitled to vote thereon. When approval effective

(8) The directors of a corporation may, if authorized by the shareholders approving a proposed sale, lease or exchange, and subject to the rights of third parties, abandon the sale, lease or exchange without further approval of the shareholders. *New.* Approval by directors

184.—(1) Subject to subsection (3) and to sections 185 and 247, if a corporation resolves to, Rights of dissenting shareholders

-  (a) amend its articles under section 167 to add, remove or change restrictions on the issue, transfer or ownership of shares of a class or series of the shares of the corporation; 
- (b) amend its articles under section 167 to add, remove or change any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (c) amalgamate with another corporation under sections 174 and 175;
- (d) be continued under the laws of another jurisdiction under section 180; or
- (e) sell, lease or exchange all or substantially all its property under subsection 183 (3),

a holder of shares of any class or series entitled to vote on the resolution may dissent.

(2) If a corporation resolves to amend its articles in a manner referred to in subsection 169 (1), a holder of shares of any class or Idem

series entitled to vote on the amendment under section 167 or 169 may dissent, except in respect of an amendment referred to in clause 169 (1) (a), (b) or (e) where the articles provide that the holders of shares of such class or series are not entitled to dissent.

Exception

(3) A shareholder of a corporation incorporated before this Act comes into force is not entitled to dissent under this section in respect of an amendment of the articles of the corporation to the extent that the amendment,

(a) amends the express terms of any provision of the articles of the corporation to conform to the terms of the provision as deemed to be amended by section 275; or

(b) deletes from the articles of the corporation all of the objects of the corporation set out in its articles, provided that the deletion is made within three years after this Act comes into force.

Shareholder's
right to be
paid fair
value

(4) In addition to any other right he may have, but subject to subsection (28), a shareholder who complies with this section is entitled, when the action approved by the resolution from which he dissents becomes effective, to be paid by the corporation the fair value of the shares held by him in respect of which he dissents, determined as of the close of business on the day before the resolution was adopted.

No partial
dissent

(5) A dissenting shareholder may only claim under this section with respect to all the shares of a class held by him on behalf of any one beneficial owner and registered in the name of the dissenting shareholder.

Objection

(6) A dissenting shareholder shall send to the corporation, at or before any meeting of shareholders at which a resolution referred to in subsection (1) or (2) is to be voted on, a written objection to the resolution, unless the corporation did not give notice to the shareholder of the purpose of the meeting or of his right to dissent.

Notice of
adoption of
resolution

(7) The corporation shall, within ten days after the shareholders adopt the resolution, send to each shareholder who has filed the objection referred to in subsection (6) notice that the resolution has been adopted, but such notice is not required to be sent to any shareholder who voted for the resolution or who has withdrawn his objection.

Demand for
payment of fair
value

(8) A dissenting shareholder entitled to receive notice under subsection (7) shall, within twenty days after he receives such

notice, or, if he does not receive such notice, within twenty days after he learns that the resolution has been adopted, send to the corporation a written notice containing,

- (a) his name and address;
- (b) the number and class of shares in respect of which he dissents; and
- (c) a demand for payment of the fair value of such shares.

(9) Not later than the thirtieth day after the sending of a notice under subsection (8), a dissenting shareholder shall send the certificates representing the shares in respect of which he dissents to the corporation or its transfer agent. Certificates to be sent in

(10) A dissenting shareholder who fails to comply with subsections (6), (8) and (9) has no right to make a claim under this section. Idem

(11) A corporation or its transfer agent shall endorse on any share certificate received under subsection (9) a notice that the holder is a dissenting shareholder under this section and shall return forthwith the share certificates to the dissenting shareholder. Endorsement on certificate

(12) On sending a notice under subsection (8), a dissenting shareholder ceases to have any rights as a shareholder other than the right to be paid the fair value of his shares as determined under this section except where, Rights of dissenting shareholder

- (a) the dissenting shareholder withdraws his notice before the corporation makes an offer under subsection (13);
- (b) the corporation fails to make an offer in accordance with subsection (13) and the dissenting shareholder withdraws his notice; or
- (c) the directors revoke a resolution to amend the articles under subsection 167 (2), terminate an amalgamation agreement under subsection 175 (5) or an application for continuance under subsection 180 (5), or abandon a sale, lease or exchange under subsection 183 (8),

in which case his rights as the holder of the shares in respect of which he has dissented are reinstated as of the date he sent the notice referred to in subsection (8), and he is entitled, upon presentation and surrender to the corporation or its transfer agent of any certificate representing the shares that has been endorsed in

accordance with subsection (11), to be issued a new certificate representing the same number of shares as the certificate so presented, without payment of any fee.

- Offer to pay (13) A corporation shall, not later than seven days after the later of the day on which the action approved by the resolution is effective or the day the corporation received the notice referred to in subsection (8), send to each dissenting shareholder who has sent such notice,
- (a) a written offer to pay for his shares in an amount considered by the directors of the corporation to be the fair value thereof, accompanied by a statement showing how the fair value was determined; or
 - (b) if subsection (28) applies, a notification that it is unable lawfully to pay dissenting shareholders for their shares.
- Idem (14) Every offer made under subsection (13) for shares of the same class or series shall be on the same terms.
- Idem (15) Subject to subsection (28), a corporation shall pay for the shares of a dissenting shareholder within ten days after an offer made under subsection (13) has been accepted, but any such offer lapses if the corporation does not receive an acceptance thereof within thirty days after the offer has been made.
- Application to court to fix fair value (16) Where a corporation fails to make an offer under subsection (13) or if a dissenting shareholder fails to accept an offer, the corporation may, within fifty days after the action approved by the resolution is effective or within such further period as the court may allow, apply to the court to fix a fair value for the shares of any dissenting shareholder.
- Idem (17) If a corporation fails to apply to the court under subsection (16), a dissenting shareholder may apply to the court for the same purpose within a further period of twenty days or within such further period as the court may allow.
- Idem (18) A dissenting shareholder is not required to give security for costs in an application made under subsection (16) or (17).
- Costs (19) If a corporation fails to comply with subsection (13), then the costs of a shareholder application under subsection (17) are to be borne by the corporation unless the court otherwise orders.
- Notice to shareholders (20) Before making application to the court under subsection (16) or not later than seven days after receiving notice of an application to the court under subsection (17), as the case may

be, a corporation shall give notice to each dissenting shareholder who, at the date upon which the notice is given,

- (a) has sent to the corporation the notice referred to in subsection (8); and
- (b) has not accepted an offer made by the corporation under subsection (13), if such an offer was made,

of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel, and a similar notice shall be given to each dissenting shareholder who, after the date of such first mentioned notice and before termination of the proceedings commenced by the application, satisfies the conditions set out in clauses (a) and (b) within three days after he satisfies such conditions.

(21) All dissenting shareholders who satisfy the conditions set out in clauses (20) (a) and (b) shall be deemed to be joined as parties to an application under subsection (16) or (17) on the later of the date upon which the application is brought and the date upon which they satisfy the conditions, and shall be bound by the decision rendered by the court in the proceedings commenced by the application. Parties joined

(22) Upon an application to the court under subsection (16) or (17), the court may determine whether any other person is a dissenting shareholder who should be joined as a party, and the court shall fix a fair value for the shares of all dissenting shareholders. Idem

(23) The court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the shares of the dissenting shareholders. Appraisers

(24) The final order of the court in the proceedings commenced by an application under subsection (16) or (17) shall be rendered against the corporation and in favour of each dissenting shareholder who, whether before or after the date of the order, complies with the conditions set out in clauses (20) (a) and (b). Final order

(25) The court may in its discretion allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective until the date of payment. Interest

(26) Where subsection (28) applies, the corporation shall, within ten days after the pronouncement of an order under subsection (24), notify each dissenting shareholder that it is unable lawfully to pay dissenting shareholders for their shares. Where corporation unable to pay

Idem

(27) Where subsection (28) applies, a dissenting shareholder, by written notice sent to the corporation within thirty days after receiving a notice under subsection (26), may,

- (a) withdraw his notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the shareholder is reinstated to his full rights as a shareholder; or
- (b) retain a status as a claimant against the corporation, to be paid as soon as the corporation is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the corporation but in priority to its shareholders.

Idem

(28) A corporation shall not make a payment to a dissenting shareholder under this section if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
- (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.

Court order

(29) Upon application by a corporation that proposes to take any of the actions referred to in subsection (1) or (2), the court may, if satisfied that the proposed action is not in all the circumstances one that should give rise to the rights arising under subsection (4), by order declare that those rights will not arise upon the taking of the proposed action, and the order may be subject to compliance with such terms and conditions as the court thinks fit and notice of any such application and a copy of any order made by the court upon such application shall be served upon the Director and, if the corporation is an offering corporation, upon the Commission.

Director may appear

(30) The Director and, in the case of an offering corporation, the Commission may appoint counsel to assist the court upon the hearing of an application under subsection (29). R.S.O. 1980, c. 54, s. 98, *amended*.

Reorganization
R.S.C. 1970,
c. B-4

185.—(1) In this section, "reorganization" means a court order made under section 247 or an order made under the *Bankruptcy Act* (Canada) approving a proposal.

Articles amended

(2) If a corporation is subject to a reorganization, its articles may be amended by the order to effect any change that might lawfully be made by an amendment under section 167.

Auxiliary
powers of
court

(3) Where a reorganization is made, the court making the order may also,

(a) authorize the issue of debt obligations of the corporation, whether or not convertible into shares of any class or having attached any rights or options to acquire shares of any class, and fix the terms thereof; and

(b) appoint directors in place of or in addition to all or any of the directors then in office.

(4) After a reorganization has been made, articles of reorganization in prescribed form shall be sent to the Director. Articles of reorganization

(5) Upon receipt of articles of reorganization, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of amendment and the articles are amended accordingly. Certificate

(6) A shareholder is not entitled to dissent under section 184 if an amendment to the articles is effected under this section. No dissent
New.

PART XV

COMPULSORY ACQUISITIONS

186.—(1) This Part applies only to an offering corporation. Application

(2) In this Part, Interpretation

(a) “dissenting offeree” means a person to whom a take-over bid or issuer bid is made who does not accept the take-over bid or issuer bid and includes a person who subsequently acquires a security that is the subject of the bid;


(b) “equity security” means any security other than a debt obligation of a corporation;

(c) “issuer bid” means an offer made by a corporation to security holders to purchase, redeem or otherwise acquire any or all of a class of the securities of the corporation, other than where,

(i) the securities to be purchased, redeemed or otherwise acquired are debt securities that are not convertible into equity securities,

(ii) the securities are to be purchased, redeemed or otherwise acquired in accordance with the terms and conditions thereof or otherwise agreed to at

the time they were issued or subsequently varied by amendment of the documents setting out those terms and conditions, or are acquired to meet sinking fund requirements or from an employee or a former employee of the issuer or of an affiliate, or

- (iii) the purchases, redemptions or other acquisitions to be made are required by the instrument creating or governing the class of securities or by this Act;
- (d) "offeree" means a person to whom a take-over bid or an issuer bid is made;
- (e) "offeree corporation" means a corporation whose securities are the subject of a take-over bid;
- (f) "offeror" means a person, other than an agent, who makes a take-over bid or an issuer bid;
-  (g) "take-over bid" means an offer made to security holders of an offeree corporation to purchase directly or indirectly voting securities of the offeree corporation, where the voting securities that are the subject of the offer to purchase, the acceptance of the offer to sell or the combination thereof, as the case may be, together with the securities currently owned by the offeror, its affiliates and associates will carry, in the aggregate, 10 per cent or more of the voting rights attached to the voting securities of the offeree corporation that would be outstanding on exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities of the offeree corporation;
- (h) "voting security" includes,
 - (i) a security currently convertible into a voting security or into another security that is convertible into a voting security,
 - (ii) a currently exercisable option or right to acquire a voting security or another security that is convertible into a voting security, or
 - (iii) a security carrying an option or right referred to in subclause (ii). *New.*

Take-over
or issuer
bid

187.—(1) If within 120 days after the date of a take-over bid or an issuer bid, the bid is accepted by the holders of not less than

90 per cent of the securities of any class of securities to which the bid relates, other than securities held at the date of the bid by or on behalf of the offeror, or an affiliate or associate of the offeror, the offeror is entitled, upon complying with this section, to acquire the securities held by dissenting offerees.

(2) An offeror may acquire the securities of any class to which the bid relates that are held by a dissenting offeree by sending on or before the earlier of the sixtieth day following the termination of the bid and the one hundred and eightieth day following the date of the bid an offeror's notice to each dissenting offeree and to the Director stating in substance that,

Shares of
dissenting
offeree

- (a) offerees holding more than 90 per cent of the securities to which the bid relates other than securities held at the date of the bid by or on behalf of the offeror or an affiliate or associate of the offeror have accepted the bid;
 - (b) the offeror is bound to take up and pay for or has taken up and paid for the securities of the offerees who accepted the bid;
 - (c) a dissenting offeree is required to elect,
 - (i) to transfer his securities to the offeror on the terms on which the offeror acquired the securities of the offerees who accepted the bid, or
 - (ii) to demand payment of the fair value of his securities in accordance with subsections (13) to (21) by notifying the offeror within twenty days after receipt of the offeror's notice;
 - (d) a dissenting offeree who does not notify the offeror in accordance with subclause (c) (ii) is deemed to have elected to transfer his securities to the offeror on the same terms that the offeror acquired the securities from the offerees who accepted the bid; and
 - (e) a dissenting offeree must send the certificates representing his securities to which the bid relates to the offeree corporation or, in the case of an issuer bid, to the offeror within twenty days after he receives the offeror's notice.
- (3) In the case of,
- (a) a take-over bid, concurrently with sending the offeror's notice under subsection (2), the offeror shall send or deliver to the offeree corporation a notice of adverse claim in accordance with section 88 with respect to each share held by a dissenting offeree; or
 - (b) an issuer bid, the offeror shall be deemed to have notice of an adverse claim for the purpose of section 88 with respect to each share held by a dissenting offeree.

Notice

Sending in
share
certificates

(4) A dissenting offeree to whom an offeror's notice is sent under subsection (2) shall, within twenty days after he receives that notice,

- (a) send the certificates representing his securities to which the take-over bid relates to the offeree corporation; or
- (b) send the certificates representing his securities to which the issuer bid relates to the offeror.

Payment by
offeror

(5) Within twenty days after the offeror sends an offeror's notice under subsection (2), the offeror shall pay or transfer to the offeree corporation the amount of money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the take-over bid under subclause (2) (c) (i).

Trust funds

(6) An offeree corporation is deemed to hold in trust for dissenting offerees the money or other consideration it receives under subsection (5), and the offeree corporation shall deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation and shall place the other consideration in the custody of a bank or other such body corporate.

Idem

(7) The offeror making an issuer bid is deemed to hold in trust for dissenting offerees the money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the issuer bid under subclause (2) (c) (i) and, within twenty days after the issuer sends an offeror's notice under subsection (2), the issuer shall deposit any such money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation and shall place the other consideration in the custody of a bank or such other body corporate within twenty days after the offeror sends an offeror's notice under subsection (2).

Notice of
compliance

(8) Within ten days after the offeror complies with subsection (5) or subsection (7), as the case may be, the offeror shall give notice of the date of such compliance to all dissenting offerees.

Application
to court

(9) At any time prior to the thirtieth day following the day upon which the offeror's notice referred to in subsection (2) is sent to dissenting offerees, a dissenting offeree who has demanded payment of the fair value of his securities in accordance with subclause (2) (c) (ii) may apply to the court for an order requiring the person who has sent the offeror's notice to provide, in such form as the court considers appropriate, such additional

security for payment to dissenting offerees of the fair value of their securities as the court may determine to be necessary, pending the determination of such fair value.

(10) The securities of all dissenting offerees shall be deemed to have been acquired by the offeror, Where shares deemed acquired

- (a) where an application under subsection (9) has not been made within the time set out in subsection (9), upon the expiration of that time; or
- (b) where an application has been made under subsection (9), upon compliance with the order made in respect of the application.

(11) Within ten days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made a take-over bid, the offeree corporation shall, Duties of offeree corporation

- (a) issue to the offeror a security certificate in respect of the securities that were held by dissenting offerees;
- (b) send to each dissenting offeree who elects to accept the take-over bid terms under subclause (2) (c) (i) and who sends his security certificates as required under clause (4) (a), the money or other consideration to which he is entitled; and
- (c) send to each dissenting offeree who has not sent his security certificates as required under clause (4) (a), notice stating in substance that,
 - (i) the certificates representing his securities have been cancelled,
 - (ii) the offeree corporation or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his securities, and
 - (iii) the offeree corporation will, subject to subsections (13) to (21), send that money or other consideration to him forthwith after receiving his securities.

(12) Within ten days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made an issuer bid, the offeror shall, Payment by offeror

- (a) send to each dissenting offeree who elects to accept the issuer bid terms under subclause (2) (c) (i) and who sends his security certificates as required under clause (4) (b), the money or other consideration to which he is entitled; and
- (b) send to each dissenting offeree who has not sent his security certificates as required under clause (4) (b) a notice stating in substance that,
 - (i) the certificates representing his securities have been cancelled,
 - (ii) the offeror or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his securities, and
 - (iii) the offeror will, subject to subsections (13) to (21), send that money or other consideration to him forthwith after receiving his securities.

Application to
fix fair value

(13) If a dissenting offeree has elected to demand payment of the fair value of his securities under subclause (2) (c) (ii), the offeror may, in the case of a take-over bid, within twenty days after it has complied with subsection (5) or, in the case of an issuer bid, within twenty days after it has complied with subsection (7), apply to the court to fix the fair value of the securities of that dissenting offeree.

Idem

(14) If an offeror fails to apply to the court under subsection (13), a dissenting offeree may apply to the court for the same purpose within a further period of twenty days.

Where no
application

(15) If no application is made to the court under subsection (13) or (14) within the periods set out in those subsections, a dissenting offeree is deemed to have elected to transfer his securities to the offeror on the same terms that the offeror acquired the securities from offerees who accepted the take-over or issuer bid and, provided that the dissenting offeree has complied with subsection (4), the issuer or the offeree corporation, as the case may be, shall pay or transfer to the dissenting offeree the money or other consideration to which he is entitled.

Security for
costs not
required

(16) A dissenting offeree is not required to give security for costs in an application made under subsection (13) or (14).

Parties

(17) Upon an application under subsection (13) or (14),

- (a) all dissenting offerees referred to in subclause (2) (c) (ii) whose securities have not been acquired by the offeror

shall be joined as parties and are bound by the decision of the court; and

- (b) the offeror shall notify each such dissenting offeree of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel.

(18) Upon an application to the court under subsection (13) or (14), the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the securities of all dissenting offerees. Idem

(19) The court may appoint one or more appraisers to assist the court in fixing a fair value for the securities of each dissenting offeree. Appointment of appraisers

(20) The final order of the court shall be made against the offeror in favour of each dissenting offeree. Final order

(21) In connection with proceedings under this section, the court may make any order it thinks fit and, without limiting the generality of the foregoing, it may, What court may order

- (a) fix the amount of money or other consideration that is required to be held in trust under subsection (6) or (7);
- (b) order that the money or other consideration be held in trust by a person other than,
 - (i) the offeree corporation, or
 - (ii) in the case of an issuer bid, the offeror corporation;
- (c) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date he sends his security certificates under subsection (4) until the date of payment; or
- (d) order that any money payable to a dissenting offeree who cannot be found be paid to the Public Trustee. *New.*

188.—(1) Where 90 per cent or more of a class of securities of a corporation, other than debt obligations, are acquired by or on behalf of a person, his affiliates and his associates, then the holder of any securities of that class not counted for the purposes of calculating such percentage shall be entitled in accordance with this section to require the corporation to acquire his securities of that class. Where corporation required to acquire securities

Notice

(2) Every corporation, within thirty days after it becomes aware that security holders are entitled to require it to acquire their securities under subsection (1), shall send a written notice to each such security holder that he may within sixty days after the date of such notice require the corporation to acquire his securities.

Idem

(3) The notice sent by the corporation under subsection (2) shall,

- (a) set out a price that the corporation is willing to pay for the securities;
- (b) give the basis for arriving at the price;
- (c) state the location where any supporting material used for arriving at the price may be examined and extracts taken therefrom by the security holder or his duly authorized agent; and
- (d) state that if the security holder is not satisfied with the price offered by the corporation in the notice he is entitled to have the fair value of his securities fixed by the court.

Election by
security holder

(4) Where a security holder receives a notice under subsection (2) and wishes the corporation to acquire his securities, he may, within sixty days after the date of the notice,

- (a) elect to accept the price offered by the corporation by giving notice of his acceptance to the corporation and by forthwith sending his security certificates to the corporation; or
- (b) notify the corporation that he wishes to have the fair value of his securities fixed by the court.

Application to
fix fair value

(5) Where a security holder wishes to have the fair value of his securities fixed by the court, the corporation shall make an application to the court within ninety days after the date of the notice under subsection (2).

Idem

(6) If a corporation fails to send notice under subsection (2), a security holder, after giving the corporation thirty days notice of his intention so to do, may apply to the court to have the fair value of his securities fixed.

Idem

(7) If a corporation fails to make an application to the court as required under subsection (5), a security holder may make the application.

(8) Upon an application to the court under subsection (5), (6) ^{Parties} or (7),

- (a) all security holders who have notified the corporation under clause (4) (b) may be joined as parties as the court thinks fit and, if so joined, are bound by the decision of the court; and
- (b) the corporation shall notify each security holder entitled to notice under subsection (2) of the date, place and purpose of the application and of his right to appear and be heard in person or by counsel.

(9) Upon an application to the court under subsection (5), (6) ^{Idem} or (7), the court may determine whether any security holders should properly be sent or have been sent notice and whether such security holders should be joined as parties.

(10) The court may appoint one or more appraisers to assist the ^{Appointment of appraiser} court in fixing a fair value for the securities.

(11) The final order of the court shall be made against the ^{Final order} corporation in favour of each entitled security holder.

(12) A security holder requesting the court to fix the fair value of his securities is not required to give security for costs on the ^{Security not required} application.

(13) The costs under this section shall be on a solicitor and client ^{Costs} basis. *New.*

189.—(1) In this section,

^{Interpre-}
^{tation}

- (a) “affected security” means a participating security of a corporation in which the interest of the holder would be terminated by reason of a going private transaction;
- (b) “going private transaction” means an amalgamation, arrangement, consolidation or other transaction carried out under this Act by a corporation that would cause the interest of a holder of a participating security of the corporation to be terminated without the consent of the holder and without the substitution therefor of an interest of equivalent value in a participating security that,
 - (i) is issued by the corporation, an affiliate of the corporation or a successor body corporate, and

- (ii) is not limited in the extent of its participation in earnings to any greater extent than the participating security for which it is substituted,

but does not include,

- (iii) an acquisition under section 187,
 - (iv) a redemption of, or other compulsory termination of the interest of the holder in, a security if the security is redeemed or otherwise acquired in accordance with the terms and conditions attaching thereto or under a requirement of the articles relating to the class of securities or of this Act, or
 - (v) a proceeding under Part XVI;
- (c) “participating security” means a security issued by a body corporate other than a security that is, in all circumstances, limited in the extent of its participation in earnings and includes,
- (i) a security currently convertible into such a security, and
 - (ii) currently exercisable warrants entitling the holder to acquire such a security or such a convertible security.

Going private
transaction

(2) A corporation that proposes to carry out a going private transaction shall have prepared by an independent, qualified valuer a written valuation indicating a per security value or range of values for each class of affected securities, and,

- (a) the valuation shall be prepared or revised as of a date not more than 120 days before the announcement of the going private transaction, with appropriate adjustments for subsequent events other than the going private transaction;
- (b) the valuation shall not contain a downward adjustment to reflect the fact that the affected securities do not form part of a controlling interest; and
- (c) if the consideration to be received by the holders of the affected securities is wholly or partly other than cash, or a right to receive cash within ninety days after the approval by security holders of the going private transaction, the valuation shall include the valuer’s opinion

whether the value of each affected security to be surrendered is equal to or greater than the total value of the consideration to be received therefor.

(3) The corporation shall send a management information circular to the holders of the affected securities not less than forty days prior to the date of a meeting which shall be called by it to consider that transaction, and the information circular shall contain, in addition to any other required information and subject to any exemption granted under subsection (6),

Information
circular

- (a) a summary of the valuation prepared in compliance with subsection (2) and a statement that a holder of an affected security may inspect a copy of the valuation at the registered office of the corporation or may obtain a copy of the valuation upon request and payment of a specified amount sufficient to cover reasonable costs of reproduction and mailing;
- (b) a statement of the approval or approvals of holders of affected securities required to be obtained in accordance with this section;
- (c) a certificate signed by a senior officer or a director of the corporation certifying that he and, to his knowledge, the corporation are unaware of any material fact relevant to the valuation prepared in compliance with subsection (2) that was not disclosed to the valuer; and
- (d) a statement of the class or classes of affected securities and of the number of securities of each class and, if any securities of any such class are, under paragraph 3 of subsection (4), not to be taken into account in the vote required by subsection (4), a statement of the number thereof and why they are not to be taken into account,

but if all or any portion of a class of affected securities is represented by certificates that are not in registered form, it shall be sufficient to make the information circular available to the holders of such affected securities in the manner provided for in the terms of the securities for sending notice to such holders or otherwise in such manner as may be prescribed.

(4) A corporation shall not carry out a going private transaction unless, in addition to any other required security holder approval, the transaction is approved by the holders of each class of affected securities by a vote in accordance with the following provisions:

Idem

- 1. If the consideration to be received by a holder of an affected security of the particular class is,

- i. payable wholly or partly other than in cash or a right to receive cash within ninety days after the approval of the going private transaction, or
- ii. payable entirely in cash and is less in amount than the per security value or the mid-point of the range of per security values, arrived at by the valuation prepared in compliance with subsection (2),

then the approval shall be given by a special resolution.

- 2. In cases other than those referred to in paragraph 1, the approval shall be given by an ordinary resolution.
- 3. In determining whether the transaction has been approved by the requisite majority, the votes of,
 - i. securities held by affiliates of the corporation,
 - ii. securities the beneficial owners of which will, consequent upon the going private transaction, be entitled to a per security consideration greater than that available to other holders of affected securities of the same class,
 - iii. securities the beneficial owners of which, alone or in concert with others, effectively control the corporation and who, prior to distribution of the information circular, entered into an understanding that they would support the going private transaction,

shall be disregarded both in determining the total number of votes cast and in determining the number of votes cast in favour of or against the transaction.

Effect of
section

(5) The rights provided by this section are in addition to any other rights of a holder of affected securities.

Powers of
Commission

(6) Upon an application by an interested person, the Commission may, subject to such terms and conditions as it may impose, exempt any person from any requirement of this section where in its opinion to do so would not be prejudicial to the public interest, and the Commission may publish guidelines as to the manner and circumstances in which it will exercise this discretion.

Rights of
security holder

(7) A holder of an affected security that is a share of any class of a corporation may dissent from a going private transaction upon compliance with the procedures set out in section 184, in which case he shall be entitled to the rights and remedies provided by that section. *New.*

PART XVI

LIQUIDATION AND DISSOLUTION

190. In sections 192 to 235, “contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Act. R.S.O. 1980, c. 54, s. 192. Interpretation

191. Sections 192 to 204 apply to corporations being wound up voluntarily. R.S.O. 1980, c. 54, s. 193. Application of ss. 192-204

192.—(1) The shareholders of a corporation may, by special resolution, require the corporation to be wound up voluntarily. Voluntary winding up

(2) At such meeting, the shareholders shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property, and may at that or any subsequent meeting fix his remuneration and the costs, charges and expenses of the winding up. Appointment of liquidator

(3) On the application of any shareholder or creditor of the corporation or of the liquidator, the court may review the remuneration of the liquidator and, whether or not the remuneration has been fixed in accordance with subsection (2), the court may fix and determine the remuneration at such amount as it thinks proper. Review of remuneration by court

(4) A corporation shall file notice, in the prescribed form, of a resolution requiring the voluntary winding up of the corporation with the Director within ten days after the resolution has been passed and shall publish the notice in *The Ontario Gazette* within twenty days after the resolution has been passed. R.S.O. 1980, c. 54, s. 194, *amended*. Publication of notice

193. The shareholders of a corporation being wound up voluntarily may delegate to any committee of shareholders, contributories or creditors, hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may enter into any arrangement with creditors of the corporation with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1980, c. 54, s. 195, *amended*. Inspectors

194. If a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a meeting for that purpose may be called by the continuing Vacancy in office of liquidator

liquidator, if any, or by any shareholder or contributory, and shall be deemed to have been duly held if called in the manner prescribed by the articles or by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling meetings of the shareholders of the corporation. R.S.O. 1980, c. 54, s. 196, *amended*.

Removal of
liquidator

195. The shareholders of a corporation may by ordinary resolution passed at a meeting called for that purpose remove a liquidator appointed under section 192, 193 or 194, and in such case shall appoint another liquidator in his stead. R.S.O. 1980, c. 54, s. 197, *amended*.

Commence-
ment of
winding up

196. A voluntary winding up commences at the time of the passing of the resolution requiring the winding up or at such later time as may be specified in the resolution. R.S.O. 1980, c. 54, s. 198, *amended*.

Corporation
to cease
business

197. A corporation being wound up voluntarily shall, from the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required as beneficial for the winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its articles or by-laws, continue until its affairs are wound up. R.S.O. 1980, c. 54, s. 199, *amended*.

No proceedings
against
corporation
after
voluntary
winding up
except by leave

198. After the commencement of a voluntary winding up,

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1980, c. 54, s. 200.

List of
contributories
and calls

199.—(1) Upon a voluntary winding up, the liquidator,

- (a) shall settle the list of contributories; and
- (b) may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he considers necessary for satisfying the

liabilities of the corporation and the costs, charges and expenses of winding up and for adjusting the rights of the contributories among themselves.

(2) A list settled by the liquidator under clause (1) (a) is *prima facie* proof of the liability of the persons named therein to be contributories. List *prima facie* proof

(3) The liquidator in making a call under clause (1) (b) may take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1980, c. 54, s. 201. Default on calls

200.—(1) The liquidator may, during the continuance of the voluntary winding up, call meetings of the shareholders of the corporation for any purpose he thinks fit. Meetings of corporation during winding up

(2) Where a voluntary winding up continues for more than one year, the liquidator shall call a meeting of the shareholders of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and he shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the immediately preceding year. R.S.O. 1980, c. 54, s. 202. Where winding up continues more than one year

201. The liquidator, with the approval of the shareholders of the corporation or the inspectors, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1980, c. 54, s. 203, *amended*. Arrangements with creditors

202. The liquidator may, with the approval referred to in section 201, comprise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person who may be liable to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1980, c. 54, s. 204. Power to compromise with debtors and contributories

Power to accept shares, etc., as consideration for sale of property to another body corporate

203.—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and it is proposed to transfer the whole or a portion of its business or property to another body corporate, the liquidator, with the approval of a resolution of the shareholders of the corporation conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part-compensation for the transfer, cash or shares or other like interest in the purchasing body corporate or any other body corporate for the purpose of distribution among the creditors or shareholders of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing body corporate or any other body corporate.

Confirmation of sale or arrangement

(2) A transfer made or arrangement entered into by the liquidator under this section is not binding on the shareholders of the corporation that is being wound up unless the transfer or arrangement is approved in accordance with subsections 183 (3), (6) and (7).

Where resolution not invalid

(3) No resolution is invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1980, c. 54, s. 205, *amended*.

Account of voluntary winding up to be made by liquidator to a meeting

204.—(1) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the corporation disposed of, and thereupon shall call a meeting of the shareholders of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner prescribed by the articles or by-laws or, in default thereof, in the manner prescribed by this Act for the calling of meetings of shareholders.

Notice of holding of meeting

(2) The liquidator shall within ten days after the meeting is held file a notice in the prescribed form with the Director stating that the meeting was held and the date thereof and shall forthwith publish the notice in *The Ontario Gazette*.

Dissolution

(3) Subject to subsection (4), on the expiration of three months after the date of the filing of the notice, the corporation is dissolved.

Extension

(4) At any time during the three-month period mentioned in subsection (3), the court may, on the application of the liquidator or any other person interested, make an order deferring the date on

which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is dissolved on the date so fixed.

(5) Notwithstanding anything in this Act, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order. Dissolution by court order

(6) The person on whose application an order was made under subsection (4) or (5) shall within ten days after it was made file with the Director a certified copy of the order and forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 206, *amended*. Copy of extension order to be filed

205. Sections 206 to 217 apply to corporations being wound up by order of the court. R.S.O. 1980, c. 54, s. 207. Application of ss. 206-217

206.—(1) A corporation may be wound up by order of the court, Winding up by court

(a) where the court is satisfied that in respect of the corporation or any of its affiliates,

- (i) any act or omission of the corporation or any of its affiliates effects a result,
- (ii) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted in a manner, or
- (iii) the powers of the directors of the corporation or any of its affiliates are or have been exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer; or

(b) where the court is satisfied that,

- (i) a unanimous shareholder agreement entitled a complaining shareholder to demand dissolution of the corporation after the occurrence of a specified event and that event has occurred,
- (ii) proceedings have been begun to wind up voluntarily and it is in the interest of contributories and

creditors that the proceedings should be continued under the supervision of the court,

(iii) the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its business and it is advisable to wind it up, or

(iv) it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up; or

(c) where the shareholders by special resolution authorize an application to be made to the court to wind up the corporation.

Court order (2) Upon an application under this section, the court may make such order under this section or section 247 as it thinks fit. R.S.O. 1980, c. 54, s. 208, *amended*.

Who may apply **207.**—(1) A winding-up order may be made upon the application of the corporation or of a shareholder or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$2,500 or more.

Notice (2) Except where the application is made by the corporation, four days' notice of the application shall be given to the corporation before the making of the application. R.S.O. 1980, c. 54, s. 209.

Power of court **208.** The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference. R.S.O. 1980, c. 54, s. 210.

Appointment of liquidator **209.**—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property.

Remuneration (2) The court may at any time fix the remuneration of the liquidator.

Vacancy (3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy. R.S.O. 1980, c. 54, s. 211 (1-3).

(4) A liquidator appointed by the court under this section shall forthwith give to the Director notice in the prescribed form of his appointment and shall, within twenty days after his appointment, publish the notice in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 220 (4), *amended*. Notice of appointment

210. The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. R.S.O. 1980, c. 54, s. 212. Removal of liquidator

211. The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court. R.S.O. 1980, c. 54, s. 213. Costs and expenses

212. Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall, unless a court otherwise orders, be deemed to commence at the time of the service of notice of the application, and, where the application is made by the corporation, at the time the application is made. R.S.O. 1980, c. 54, s. 214. Commencement of winding up

213. Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1980, c. 54, s. 215. Proceedings in winding up after order

214.—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders of the corporation to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court. Meetings of shareholders of corporation may be ordered

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, officer, employee, trustee, banker or agent of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, documents, records, estate or effects that are in his hands and to which the corporation is *prima facie* entitled. Order for delivery by contributories and others of property, etc.

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the documents and Inspection of documents and records

records of the corporation by its creditors and contributories, and any documents and records in the possession of the corporation may be inspected in conformity with the order. R.S.O. 1980, c. 54, s. 216.

Proceedings
against cor-
poration after
court winding
up

215. After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1980, c. 54, s. 217.

Provision for
discharge and
distribution by
the court

216.—(1) Where the realization and distribution of the property of a corporation being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of
documents and
records

(2) In such case, the court may make an order directing how the documents and records of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court thinks fit. R.S.O. 1980, c. 54, s. 218.

Order for
dissolution

217.—(1) The court at any time after the business and affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Copy of dissol-
ution order to
be filed

(2) The person on whose application the order was made shall within ten days after it was made file with the Director a certified copy of the order and shall forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 219, *amended*.

Application of
ss. 219-235

218. Sections 219 to 235 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1980, c. 54, s. 220.

219. Where there is no liquidator,Where no
liquidator

- (a) the court may by order on the application of a shareholder of the corporation appoint one or more persons as liquidator; and
- (b) the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. R.S.O. 1980, c. 54, s. 221.

220.—(1) Upon a winding up,Consequences
of winding up

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities and, subject thereto, shall distribute the property rateably among the shareholders according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, debts to employees of the corporation for services performed for it due at the commencement of the winding up or within one month before, not exceeding three months' wages and vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;
- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

(2) Section 53 of the *Trustee Act* applies with necessary modifications to liquidators. R.S.O. 1980, c. 54, s. 222.

Distribution of
property
R.S.O. 1980,
c. 512

221. The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. R.S.O. 1980, c. 54, s. 223.

Payment of
costs and
expenses**222.—(1)** A liquidator may,Powers of
liquidators

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as may be required as beneficial for the winding up of the corporation;

- (c) sell the property of the corporation by public auction or private sale and receive payment of the purchase price either in cash or otherwise;
- (d) do all acts and execute, in the name and on behalf of the corporation, all documents, and for that purpose use the seal of the corporation, if any;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration of the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be done conveniently in the name of the corporation; and
- (h) do and execute all such other things as are necessary for winding up the business and affairs of the corporation and distributing its property.

Bills of exchange, etc., to be deemed drawn in the course of business

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of a corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Where moneys deemed to be due to liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself.

What liquidator may rely upon

(4) Where he does so in good faith, a liquidator is entitled to rely upon,

- (a) financial statements of the corporation represented to him by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) an opinion, a report or a statement of a lawyer, an accountant, an engineer, an appraiser or other profes-

sional adviser retained by the liquidator. R.S.O. 1980, c. 54, s. 224, *amended*.

223. Where more than one person is appointed as liquidator, Acts by more than one liquidator any power conferred by sections 192 to 235 on a liquidator may be exercised by such one or more of such persons as may be determined by the resolution or order appointing them or, in default of such determination, by any number of them not fewer than two. R.S.O. 1980, c. 54, s. 225.

224. The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. Nature of liability of contributory R.S.O. 1980, c. 54, s. 226.

225. If a contributory dies before or after he has been placed on the list of contributories, his personal representative is liable in due course of administration to contribute to the property of the corporation in discharge of the liability of the deceased contributory and shall be a contributory accordingly. Liability in case of his death R.S.O. 1980, c. 54 s. 227.

226.—(1) The liquidator shall deposit all moneys that he has belonging to the corporation and amounting to \$100 or more in any chartered bank of Canada or in the Province of Ontario Savings Office or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act* or in any other depository approved by the court. Deposit of moneys R.S.O. 1980, c. 249
228 (1), *amended*.

(2) If inspectors have been appointed, the depository under subsection (1) shall be one approved by them. Approval by inspectors

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only by order for payment signed by the liquidator and one of the inspectors, if any. Separate deposit account to be kept; withdrawal from account

(4) At every meeting of the shareholders of the corporation, the liquidator shall produce a pass-book, or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting. Liquidator to produce bank pass-book

Idem

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder of the corporation. R.S.O. 1980, c. 54, s. 228 (2-5).

Proving claim
R.S.O. 1980,
c. 33

227. For the purpose of proving claims, sections 23, 24 and 25 of the *Assignments and Preferences Act* apply with necessary modifications, except that where the word "judge" is used therein, the word "court" as used in this Act shall be substituted. R.S.O. 1980, c. 54, s. 229.

Application
for direction

228. Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as the court prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1980, c. 54, s. 230.

Examination
of persons
as to
estate

229.—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director, officer or employee of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court thinks capable of giving information concerning its trade, dealings, estate or effects.

Damages
against
delinquent
directors,
etc.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director, officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, property of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor, shareholder or contributory, examine the conduct of that person and order him to restore the property so misapplied or retained, or for which he has become liable or accountable, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, or both, as the court thinks just. R.S.O. 1980, c. 54, s. 231.

Proceedings
by
shareholders

230.—(1) Where a shareholder of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or of the inspectors, if any, refuses or neglects to take such proceedings after being required so to do, the shareholder may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

(2) Any benefit derived from a proceeding under subsection (1) belongs exclusively to the shareholder causing the institution of the proceeding for his benefit and that of any other shareholder who has joined him in causing the institution of the proceeding. Benefits: when for shareholders

(3) If, before the order is granted, the liquidator signifies to the court his readiness to institute the proceeding for the benefit of the corporation, the court shall make an order prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. R.S.O. 1980, c. 54, s. 232. when for corporation

231. The rights conferred by this Act are in addition to any other right to institute proceedings against any contributory, or against any debtor of the corporation, for the recovery of any sum due from such contributory or debtor or his estate. R.S.O. 1980, c. 54, s. 233. Rights conferred by Act to be in addition to other powers

232. At any time during a winding up, the court, upon the application of a shareholder, creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court thinks fit. R.S.O. 1980, c. 54, s. 234. Stay of winding up proceedings

233.—(1) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and thereupon subsections 237 (5) and (6) apply thereto. Where creditor unknown

(2) A payment under subsection (1) shall be deemed to be in satisfaction of the debt for the purposes of winding up. R.S.O. 1980, c. 54, s. 235. Idem

234.—(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders because a shareholder is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder, and thereupon subsections 237 (5) and (6) apply thereto. Where shareholder unknown

(2) A delivery or conveyance under subsection (1) shall be deemed to be a distribution to that shareholder of his rateable Idem

share for the purposes of the winding up. R.S.O. 1980, c. 54, s. 236.

Disposal of records, etc., after winding up

235.—(1) Where a corporation has been wound up under sections 191 to 234 and is about to be dissolved, its documents and records and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under an order.

When responsibility as to custody of records, etc., to cease

(2) After the expiration of five years after the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of the documents and records has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1980, c. 54, s. 237.

Voluntary dissolution

236. A corporation may be dissolved upon the authorization of,

- (a) a special resolution passed at a meeting of the shareholders of the corporation duly called for the purpose or, in the case of a corporation that is not an offering corporation, by such other proportion of the votes cast as the articles provide, but such other proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting;
- (b) the consent in writing of all the shareholders entitled to vote at such meeting; or
- (c) all its incorporators or their personal representatives at any time within two years after the date set out in its certificate of incorporation where the corporation has not commenced business and has not issued any shares. R.S.O. 1980, c. 54, s. 238, *amended*.

Articles of dissolution where corporation active

237.—(1) For the purpose of bringing the dissolution authorized under clause 236 (a) or (b) into effect, articles of dissolution shall follow the prescribed form and shall set out,

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause 236 (a) or (b);
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection (3) or its creditors or other

persons having interests in its debts, obligations or liabilities consent to its dissolution;

- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection (4) where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its registered office. R.S.O. 1980, c. 54, s. 139 (1), *amended*.

(2) For the purpose of bringing a dissolution authorized under clause 236 (c) into effect, articles of dissolution shall follow the prescribed form and shall set out,

Articles of
dissolution
where
corporation
never active

- (a) the name of the corporation;
- (b) the date set out in its certificate of incorporation;
- (c) that the corporation has not commenced business;
- (d) that none of its shares has been issued;
- (e) that dissolution has been duly authorized under clause 236 (c);
- (f) that it has no debts, obligations or liabilities;
- (g) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto;
- (h) that there are no proceedings pending in any court against it; and
- (i) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its registered office. R.S.O. 1980, c. 54, s. 239 (2), *amended*.

Where creditor
unknown

(3) Where a corporation authorizes its dissolution and a creditor is unknown or his whereabouts is unknown, the corporation may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause (1) (c).

Where
shareholder
unknown

(4) Where a corporation authorizes its dissolution and a shareholder is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a distribution to that shareholder of his rateable share for the purposes of the dissolution.

Power to
convert

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection (4) is in a form other than cash, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash.

Payment to
person entitled

(6) If the amount paid under subsection (3) or the share of the property delivered or conveyed under subsection (4) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him. R.S.O. 1980, c. 54, s. 239 (3-6).

Certificate of
dissolution

238.—(1) Upon receipt of the articles of dissolution, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of dissolution.

Incorporators
to sign articles
of dissolution
where corpor-
ation did not
commence
business

(2) Notwithstanding clause 272 (1) (a), articles of dissolution for the purposes of subsection 237 (2) shall be signed by all its incorporators or their personal representatives. R.S.O. 1980, c. 54, s. 240, *amended*.

Cancellation of
certificate, etc.,
by Director

239.—(1) Where sufficient cause is shown to the Director, notwithstanding the imposition of any other penalty in respect thereof and in addition to any rights he may have under this or any other Act, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any other certificate issued by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance of the certificate ceases to be in effect from the date fixed in the order.

(2) In this section, "sufficient cause" with respect to cancellation of a certificate of incorporation includes, Interpretation

- (a) failure to pay the prescribed fee for incorporation;
- (b) failure to comply with subsection 115 (2) or subsection 118 (3);
- (c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; R.S.O. 1980, c. 96
- (d) a conviction of the corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where cancellation of the certificate is in the public interest; or R.S.C. 1970, c. C-34
R.S.O. 1980, c. 400
- (e) conduct described in subsection 247 (2). R.S.O. 1980, c. 54, s. 241, *amended*.

240.—(1) Where the Director is notified by the Minister of Revenue that a corporation is in default in complying with the provisions of the *Corporations Tax Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation remedies its default within ninety days after the giving of the notice. Notice of dissolution
R.S.O. 1980, c. 97

(2) Where the Director is notified by the Commission that a corporation has not complied with sections 76 and 77 of the *Securities Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with sections 76 and 77 of the *Securities Act* within ninety days after the giving of the notice. Idem
R.S.O. 1980, c. 466

(3) Upon default in compliance with the notice given under subsection (1) or (2), the Director may by order cancel the certificate of incorporation and, subject to subsection (4), the corporation is dissolved on the date fixed in the order. Order for dissolution

Revival

(4) Where a corporation is dissolved under subsection (3) or any predecessor thereof, the Director on the application of any interested person immediately before the dissolution, made within five years after the date of dissolution, may, in his discretion, on such terms and conditions as he sees fit to impose, revive the corporation and thereupon the corporation, subject to the terms and conditions imposed by the Director and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights and privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

Articles of revival

(5) The application referred to in subsection (4) shall be in the form of articles of revival which shall be in prescribed form.

Certificate of revival

(6) Upon receipt of articles of revival and any other prescribed documents, the Director, subject to subsection (4), shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of revival. R.S.O. 1980, c. 54, s. 242, *amended*.

Actions after dissolution

241.—(1) Notwithstanding the dissolution of a corporation under section 238, 239 or 240,

- (a) a civil, criminal or administrative action or proceeding commenced by or against the corporation before its dissolution may be continued as if the corporation had not been dissolved;
- (b) a civil, criminal or administrative action or proceeding may be brought against the corporation within five years after its dissolution as if the corporation had not been dissolved; and
- (c) any property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for such purpose.

Service after dissolution

(2) For the purposes of this section, the service of any process on a corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Ministry as being a director or officer of the corporation before the dissolution. R.S.O. 1980, c. 54, s. 243.

Idem

(3) Where an action, suit or other proceeding has been brought against a corporation after its dissolution, notice of the commencement of the action, suit or other proceeding, together with the writ or other document by which the action, suit or other proceeding was commenced, shall be served upon the Public Trustee. *New.*

242.—(1) Notwithstanding the dissolution of a corporation, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 241 to the extent of the amount received by that shareholder upon the distribution, and an action to enforce such liability may be brought within five years after the date of the dissolution of the corporation. Liability of shareholders to creditors

(2) The court may order an action referred to in subsection (1) to be brought against the persons who were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes his claim, the court may refer the proceedings to a referee or other officer of the court who may, Party action

(a) add as a party to the proceedings before him each person who was a shareholder found by the plaintiff;

(b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff's claim; and

(c) direct payment of the amounts so determined.

(3) In this section, "shareholder" includes the heirs and legal representatives of a shareholder. R.S.O. 1980, c. 54, s. 244, *amended*. Interpretation

243.—(1) Any property of a corporation that has not been disposed of at the date of its dissolution is immediately upon such dissolution forfeit to the Crown. R.S.O. 1980, c. 54, s. 245, *amended*. Forfeiture of undisposed property

(2) Where judgment is given or an order or decision is made in an action, suit or proceeding commenced in accordance with the provisions of section 241 and the judgment, order or decision affects property formerly belonging to the corporation, the property, notwithstanding subsection (1), shall be available to satisfy the judgment, order or other decision unless the plaintiff or applicant has failed to give notice to the Public Trustee in accordance with subsection 241 (3). *New*. Exception

PART XVII

REMEDIES, OFFENCES AND PENALTIES

244. In this Part,

Interpretation

(a) "action" means an action under this Act;

(b) "complainant" means,

- (i) a registered holder or beneficial owner, and a former registered holder or beneficial owner, of a security of a corporation or any of its affiliates,
- (ii) a director or an officer or a former director or officer of a corporation or of any of its affiliates,
- (iii) any other person who, in the discretion of the court, is a proper person to make an application under this Part. *New.*

Derivative
actions

245.—(1) Subject to subsection (2), a complainant may apply to the court for leave to bring an action in the name and on behalf of a corporation or any of its subsidiaries, or intervene in an action to which any such body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the body corporate.

Idem

(2) No action may be brought and no intervention in an action may be made under subsection (1) unless the complainant has given fourteen days' notice to the directors of the corporation or its subsidiary of his intention to apply to the court under subsection (1) and the court is satisfied that,

- (a) the directors of the corporation or its subsidiary will not bring, diligently prosecute or defend or discontinue the action;
- (b) the complainant is acting in good faith; and
- (c) it appears to be in the interests of the corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued.

Ex parte
application

(3) Where a complainant on an *ex parte* application can establish to the satisfaction of the court that it is not expedient to give notice as required under subsection (2), the court may make such interim order as it thinks fit pending the complainant giving notice as required.

Interim
order

(4) Where a complainant on an application can establish to the satisfaction of the court that an interim order for relief should be made, the court may make such order as it thinks fit. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Court
order

246. In connection with an action brought or intervened in under section 245, the court may at any time make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order authorizing the complainant or any other person to control the conduct of the action;
- (b) an order giving directions for the conduct of the action;
- (c) an order directing that any amount adjudged payable by a defendant in the action shall be paid, in whole or in part, directly to former and present security holders of the corporation or its subsidiary instead of to the corporation or its subsidiary; and
- (d) an order requiring the corporation or its subsidiary to pay reasonable legal fees and any other costs reasonably incurred by the complainant in connection with the action. R.S.O. 1980, c. 54, s. 97, *part*, *amended*.

247.—(1) A complainant, the Director and, in the case of an offering corporation, the Commission may apply to the court for an order under this section. Application to court: oppression remedy

(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a corporation or any of its affiliates, Idem

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer of the corporation, the court may make an order to rectify the matters complained of.

(3) In connection with an application under this section, the court may make any interim or final order it thinks fit including, without limiting the generality of the foregoing, Court order

- (a) an order restraining the conduct complained of;
- (b) an order appointing a receiver or receiver-manager;
- (c) an order to regulate a corporation's affairs by amending the articles or by-laws or creating or amending a unanimous shareholder agreement;

- (d) an order directing an issue or exchange of securities;
- (e) an order appointing directors in place of or in addition to all or any of the directors then in office;
- (f) an order directing a corporation, subject to subsection (6), or any other person, to purchase securities of a security holder;
- (g) an order directing a corporation, subject to subsection (6), or any other person, to pay to a security holder any part of the moneys paid by him for securities;
- (h) an order varying or setting aside a transaction or contract to which a corporation is a party and compensating the corporation or any other party to the transaction or contract;
- (i) an order requiring a corporation, within a time specified by the court, to produce to the court or an interested person financial statements in the form required by section 153 or an accounting in such other form as the court may determine;
- (j) an order compensating an aggrieved person;
- (k) an order directing rectification of the registers or other records of a corporation under section 249;
- (l) an order winding up the corporation under section 206;
- (m) an order directing an investigation under Part XIII be made; and
- (n) an order requiring the trial of any issue.

Idem

(4) Where an order made under this section directs amendment of the articles or by-laws of a corporation,

- (a) the directors shall forthwith comply with subsection 185 (4); and
- (b) no other amendment to the articles or by-laws shall be made without the consent of the court, until the court otherwise orders.

Shareholder
may not
dissent

(5) A shareholder is not entitled to dissent under section 184 if an amendment to the articles is effected under this section.

(6) A corporation shall not make a payment to a shareholder under clause (3) (f) or (g) if there are reasonable grounds for believing that,

Where corporation prohibited from paying shareholder

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.
New.

248.—(1) An application made or an action brought or intervened in under this Part shall not be stayed or dismissed by reason only that it is shown that an alleged breach of a right or duty owed to the corporation or its affiliate has been or may be approved by the shareholders of such body corporate, but evidence of approval by the shareholders may be taken into account by the court in making an order under section 206, 246 or 247. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Discontinuance and settlement

(2) An application made or an action brought or intervened in under this Part shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any complainant may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application or action to give notice to the complainant.

Idem

(3) A complainant is not required to give security for costs in any application made or action brought or intervened in under this Part.

Costs

(4) In an application made or an action brought or intervened in under this Part, the court may at any time order the corporation or its affiliate to pay to the complainant interim costs, including reasonable legal fees and disbursements, for which interim costs the complainant may be held accountable to the corporation or its affiliate upon final disposition of the application or action. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Idem

249.—(1) Where the name of a person is alleged to be or have been wrongly entered or retained in, or wrongly deleted or wrongly omitted from, the registers or other records of a corporation, the corporation, a security holder of the corporation or any aggrieved person may apply to the court for an order that the registers or records be rectified.

Rectifying error in entering, etc., name

Idem

(2) In connection with an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order requiring the registers or other records of the corporation to be rectified;
- (b) an order restraining the corporation from calling or holding a meeting of shareholders or paying a dividend or making any other distribution or payment to shareholders before the rectification;
- (c) an order determining the right of a party to the proceedings to have his name entered or retained in, or deleted or omitted from, the registers or records of the corporation, whether the issue arises between two or more security holders, or between the corporation and any security holders or alleged security holders;
- (d) an order compensating a party who has incurred a loss. R.S.O. 1980, c. 54, s. 159, *amended*.

Notice of
refusal
to file

250.—(1) Where the Director refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor.

Failure to
act deemed
refusal

(2) Where, within six months after the delivery to the Director of articles or other documents referred to in subsection (1), the Director has not endorsed a certificate on such articles or other document, he shall be deemed for the purposes of section 251 to have refused to endorse it. R.S.O. 1980, c. 54, s. 260, *amended*.

Appeal from
Director

251.—(1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse a certificate on articles or on any other document;
- (b) to issue or to refuse to issue a certificate of amendment under section 12;
- (c) to refuse to grant an order under section 144;
- (d) to grant or refuse to grant exemption under section 148;

(e) to refuse to endorse an authorization under section 180;
or

(f) to issue an order under section 239,

may appeal to the Divisional Court.

(2) Every appeal shall be by notice of motion sent by registered mail to the Director within thirty days after the mailing of the notice of the decision. Form of appeal

(3) The Director shall certify to the Registrar of the Supreme Court, Certificate of Director

(a) the decision of the Director together with a statement of the reasons therefor;

(b) the record of any hearing; and

(c) all written submissions to the Director or other material that is relevant to the appeal.

(4) The Director is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Representation

(5) Where an appeal is taken under this section, the court may by its order direct the Director to make such decision or to do such other act as the Director is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Director shall make such decision or do such act accordingly. Court order

(6) Notwithstanding an order of the court under subsection (5), the Director has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. R.S.O. 1980, c. 54, s. 261, *amended*. Director may make further decision

252.—(1) Where a corporation or any shareholder, director, officer, employee, agent, auditor, trustee, receiver and manager, receiver, or liquidator of a corporation does not comply with this Act, the regulations, articles, by-laws, or a unanimous shareholder agreement, a complainant or a creditor of the corporation may, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other right he has, apply to the court for an order directing the corporation or any person to comply with, or restraining the corporation or any Orders for compliance

person from acting in breach of, any provisions thereof, and upon such application the court may so order and make any further order it thinks fit.

Idem

(2) Where it appears to the Commission that any person to whom section 111 or subsection 112 (1) applies has failed to comply with or is contravening either or both of such provisions, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention, the Commission may apply to the court and the court may, upon such application, make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a solicitation, the holding of a meeting or any person from implementing or acting upon any resolution passed at a meeting, to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates;
- (b) an order requiring correction of any form of proxy or information circular and a further solicitation; or
- (c) an order adjourning the meeting to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates. R.S.O. 1980, c. 54, s. 252, *amended*.

Ex parte
application

253. Where this Act states that a person may apply to the court, that person may apply for injunctive relief *ex parte* as the rules of the court provide. *New.*

Appeal

254. An appeal lies to the Divisional Court from any order made by the court under this Act. *New.*

Interpre-
tation

255.—(1) In this section, “misrepresentation” means,

- (a) an untrue statement of material fact; or
- (b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

Offence, false
statements,
etc.

(2) Every person who,

- (a) makes or assists in making a statement in any material, evidence or information submitted or given under this

Act or the regulations to the Director, his delegate or the Commission or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (b) makes or assists in making a statement in any application, articles, consent, financial statement, information circular, notice, report or other document required to be filed with, furnished or sent to the Director or the Commission under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) fails to file with the Director or the Commission any document required by this Act to be filed with him or the Commission; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made by the Director or the Commission under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a body corporate, to a fine of not more than \$25,000.

(3) Where a body corporate is guilty of an offence under subsection (2), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. Idem

(4) No person is guilty of an offence under clause (2) (a) or (b) if he did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation. Defence
R.S.O. 1980, c. 54, ss. 247, 248, 250 (2).

256. No proceeding under section 255 shall be commenced except with the consent or under the direction of the Minister. Consent
R.S.O. 1980, c. 54, s. 249.

257.—(1) Every person who, Offence



- (a) fails without reasonable cause to comply with subsection 29 (5);

- (b) without reasonable cause uses a list of holders of securities in contravention of subsection 52 (5) or subsection 146 (8);
- (c) fails without reasonable cause to send a prescribed form of proxy to each shareholder of an offering corporation with notice of a meeting of shareholders in contravention of subsection 111 (1);
- (d) fails without reasonable cause to send an information circular in connection with a proxy solicitation in contravention of subsection 112 (1);
- (e) being a proxyholder or alternate proxyholder, fails without reasonable cause, to comply with the directions of the shareholder who appointed him in contravention of subsection 114 (1);
- (f) without reasonable cause contravenes section 145;
- (g) being a director of a corporation, fails, without reasonable cause, to appoint an auditor or auditors, as the case may be, under subsection 149 (1);
- (h) being an auditor or former auditor of a corporation fails without reasonable cause to comply with subsection 150 (2);
- (i) fails without reasonable cause to comply with subsection 153 (1); or
- (j) otherwise without reasonable cause commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or if such person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. *New.*

Limitation

258.—(1) No proceeding under section 255 or under clause 257 (1) (j) for a contravention of section 144 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Director as certified by him.

(2) Subject to subsection (1), no proceeding for an offence under this Act or the regulations shall be commenced more than two years after the time when the subject-matter of the offence arose. Idem
 R.S.O. 1980, c. 54, s. 251, *amended*.

259. An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any prosecution is objectionable as insufficient by reason of the fact that it relates to two or more offences. *New.* Information containing more than one offence

260. No civil remedy for an act or omission is suspended or affected by reason that the act or omission is an offence under this Act. *New.* Civil remedy not affected

PART XVIII

GENERAL

261.—(1) A notice or document required by this Act, the regulations, the articles or the by-laws to be sent to a shareholder or director of a corporation may be sent by prepaid mail addressed to, or may be delivered personally to, Notice to directors or shareholders

(a) a shareholder at his latest address as shown in the records of the corporation or its transfer agent; and

(b) a director at his latest address as shown in the records of the corporation or in the most recent notice filed under the *Corporations Information Act*, whichever is the more current. R.S.O. 1980, c. 96

(2) A notice or document sent in accordance with subsection (1) to a shareholder or director of a corporation is deemed to be received by the addressee on the fifth day after mailing. Idem

(3) A director named in the articles or the most recent return or notice filed under the *Corporations Information Act*, or a predecessor thereof, is presumed for the purposes of this Act to be a director of the corporation referred to in the articles, return or notice. Director

(4) Where a corporation sends a notice or document to a shareholder in accordance with subsection (1) and the notice or document is returned on three consecutive occasions because the shareholder cannot be found, the corporation is not required to send any Where notice returned

further notices or documents to the shareholder until he informs the corporation in writing of his new address.

Application
to court

(5) Where it is impracticable or impossible to comply with subsection (1), a person may apply to the court for such order as the court thinks fit. R.S.O. 1980, c. 54, s. 246, *part, amended*.

Notice to
corporation

262. Except where otherwise provided in this Act, a notice or document required to be sent to a corporation may be sent to the corporation by prepaid mail at its registered office as shown on the records of the Director or may be delivered personally to the corporation at such office and shall be deemed to be received by the corporation on the fifth day after mailing. R.S.O. 1980, c. 54, s. 246 (3), *amended*.

Waiver of
notice and
abridgement of
times

263. Where a notice or document is required by this Act or the regulations to be sent, the notice may be waived or the time for the sending of the notice or document may be waived or abridged at any time with the consent in writing of the person entitled thereto. R.S.O. 1980, c. 54, s. 246 (4), *amended*.

Delegation
of powers
and duties

264.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. *New*.

Execution of
certificate of
Director

(2) Where this Act requires or authorizes the Director to endorse or issue a certificate or to certify any fact, the certificate shall be signed by the Director or any other person designated by the regulations.

Certificate as
evidence

(3) A certificate referred to in subsection (2) or a certified copy thereof, when introduced as evidence in any civil, criminal, or administrative action or proceeding, is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate.

Mechanical
reproduction of
signature

(4) For the purposes of subsections (2) and (3), any signature of the Director or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. R.S.O. 1980, c. 54, s. 257, *amended*.

Certificate
that may be
signed by
directors, etc.

265.—(1) A certificate issued on behalf of a corporation stating any fact that is set out in the articles, the by-laws, a unanimous shareholder agreement, the minutes of the meetings of the directors, a committee of directors or the shareholders, or a trust indenture or other contract to which the corporation is a party, may be signed by a director, an officer or a transfer agent of the corporation.

(2) When introduced as evidence in any civil, criminal or administrative action or proceeding, *Prima facie evidence*

- (a) a fact stated in a certificate referred to in subsection (1);
- (b) a certified extract from a register of a corporation required to be maintained by this Act; or
- (c) a certified copy of minutes or extract from minutes of a meeting of shareholders, directors or a committee of directors of a corporation,

is, in the absence of evidence to the contrary, proof of the facts so certified without proof of the signature or official character of the person appearing to have signed the certificate.

(3) An entry in a securities register of, or a security certificate issued by, a corporation is, in the absence of evidence to the contrary, proof that the person in whose name the security is registered or whose name appears on the certificate is the owner of the securities described in the register or in the certificate, as the case may be. *Idem* *New.*

266.—(1) Where a notice or document is required to be sent to the Director under this Act, the Director may accept a photostatic or photographic copy thereof. *Copy of document acceptable*

(2) Subsection (1) does not apply to articles, applications or documents filed under subsection 9 (3). *Exception to subs. (1)* *New.*

267.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. *Proof by affidavit*

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath. R.S.O. 1980, c. 54, s. 254, *amended.* *Oaths at hearings*

268. The Director shall cause notice to be published forthwith in *The Ontario Gazette*, *Publication of notices in The Ontario Gazette*

- (a) of every endorsement of a certificate in accordance with section 272;
- (b) of every order made under subsection 144 (3) or (4), section 239 or subsection 240 (3); and

- (c) of every endorsement of a corrected certificate described in subsection 273 (3). R.S.O. 1980, c. 54, s. 255, *amended*.

Examination,
etc., of
documents

269.—(1) A person who has paid the prescribed fee is entitled during usual business hours to examine and to make copies of or extracts from any document required by this Act or the regulations to be sent to the Director or the Commission, except a report sent to the Director under subsection 161 (2) that the court has ordered not to be made available to the public.

Copies to be
furnished

(2) Subject to clause 161 (1) (j), the Director or the Commission shall furnish any person with a copy or a certified copy of a document required by this Act or the regulations to be sent to the Director or the Commission. *New*.

Appeal from
Commission

R.S.O. 1980,
c. 466

270. Any person aggrieved by a decision of the Commission under this Act may appeal the decision to the Divisional Court and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. R.S.O. 1980, c. 54, s. 262, *amended*.

Regulations

271. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act including, without limiting the generality of the foregoing, regulations,

1. respecting names of corporations or classes thereof, the designation, rights, privileges, restrictions or conditions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing thereof;
2. requiring the payment of fees for any matter that the Director or the Commission is required or authorized to do under this Act, and prescribing the amounts thereof;
3. prescribing forms for use under this Act and providing for the use thereof;
4. prescribing the form and content of any notices or documents required to be filed under this Act;
5. designating officers of the Ministry for the purposes of endorsing certificates, issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
6. prescribing the form and content of proxies and information circulars required by Part VIII;

7. prescribing requirements with respect to applications to the Director or the Commission for exemptions permitted by this Act and the practice and procedure thereon;
8. prohibiting the use of any words or expressions in a corporate name;
9. defining any word or expression used in clause 9 (1) (b);
10. prescribing requirements for the purposes of clause 9 (1) (c);
11. prescribing conditions for the purposes of subsection 9 (2);
12. prescribing the documents relating to names that shall be filed with the Director under subsection 9 (3);
13. respecting the name of a corporation under subsection 10 (2);
14. prescribing the punctuation marks and other marks that may form part of a corporate name under subsection 10 (3);
15. respecting the content of a special language provision under subsection 10 (4);
16. prescribing the form of the statutory declarations under subsection 52 (1) and subsection 146 (1);
17. prescribing the form and content of financial statements and interim financial statements required under this Act;
18. prescribing standards to be used by an auditor in making an examination of financial statements required under this Act and the manner in which the auditor shall report thereon;
19. prescribing exceptions under section 176;
20. prescribing the manner in which notice may be sent under subsection 189 (3);
21. prescribing the requirements with respect to applications by the Director authorized under subsection 247 (1).



22. prescribing Acts of Canada or a province or ordinances of a territory for purposes of sections 29, 42, 45 and 56 and prescribing the notice required under subsection 45 (1);
23. authorizing a corporation to limit the number of shares of the corporation that may be owned by any person under subsection 42 (3);
24. prescribing the manner in which funds may be invested under subsection 45 (5);
25. prescribing,
 - i. the disclosure required of any restrictions on the issue, transfer or ownership of shares of corporations in documents issued or published by such corporations,
 - ii. the duties and powers of the directors of corporations to refuse to issue or register transfers of shares in accordance with the articles,
 - iii. the limitations on voting rights of any shares held contrary to the articles, and
 - iv. the powers of the directors of corporations to require disclosure of beneficial ownership of shares and the rights of corporations and their directors, employees or agents to rely on such disclosure and the effects of such reliance;
26. prescribing the circumstances and conditions under which the Director may exercise his power under subsection 148 (2). R.S.O. 1980, c. 54, s. 263, *amended*.



Where
articles
to be sent
to Director

272.—(1) Where this Act requires that articles relating to a corporation be sent to the Director, unless otherwise specifically provided,

- (a) two duplicate originals of the articles shall be signed by a director or an officer of the corporation or, in the case of articles of incorporation, by an incorporator; and
- (b) upon receiving duplicate originals of any articles in the prescribed form that have been executed in accordance with this Act, any other required documents and the prescribed fees, the Director shall, subject to the discretion of the Director as provided in subsection 179 (4) and subsection 240 (6), and, subject to subsection (2),

- (i) endorse on each duplicate original a certificate, setting out the day, month and year of endorsement and the corporation number,
- (ii) file a copy of the articles with the endorsement of the certificate thereon,
- (iii) send to the corporation or its representative one duplicate original of the articles with the endorsement of the certificate thereon, and
- (iv) publish in *The Ontario Gazette*, in accordance with section 268, notice of the endorsement of the certificate.

(2) A certificate referred to in subsection (1) shall be dated as of the day the Director receives the duplicate originals of any articles together with all other required documents executed in accordance with this Act and the prescribed fee, or as of any later date acceptable to the Director and specified by the person who submitted the articles or by the court. Date on certificate

(3) Articles endorsed with a certificate under subsection (1), are effective on the date shown in the certificate notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the certificate and filing by him is taken at a later date. *New.* Effective date of articles

273.—(1) Where a certificate endorsed by the Director contains an error or where a certificate is endorsed by the Director on articles or any other documents that contain an error, the corporation and its directors and shareholders shall, upon the request of the Director and after being given an opportunity to be heard, surrender the certificate and related articles or documents to the Director and pass such resolutions and take such other steps as the Director may reasonably require, and the Director shall then endorse a corrected certificate. Where error in respect of certificate

(2) A corrected certificate endorsed under subsection (1) may bear the date of the certificate it replaces. Date on certificate

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette* in accordance with section 268. Material amendment

(4) A decision of the Director under subsection (1) may be appealed to the Divisional Court which may order the Director to change his decision and make such further order as it thinks fit. *New.* Appeal

Records

274.—(1) Records required by this Act to be prepared and maintained by the Director or Commission may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Admission as evidence

(2) When records maintained by the Director or the Commission are prepared and maintained other than in written form,

- (a) the Director or the Commission shall furnish any copy required to be furnished under subsection 269 (2) in intelligible written form; and
- (b) a report reproduced from those records, if it is certified by the Director or the Commission or a member thereof, as the case may be, is, without proof of the office or signature thereof, admissible in evidence to the same extent as the original written records would have been.

Copy in lieu of document

(3) The Director or Commission, as the case may be, is not required to produce any document where a copy of the document is furnished in compliance with clause (2) (a). *New.*



Saving provision

275.—(1) Any provision in articles, by-laws or any special resolution of a corporation that was valid immediately before this Act comes into force and that is not in conformity with this Act continues to be valid and in effect for a period of one year after the date of the coming into force of this section, but any amendment to any such provision shall be made in accordance with this Act.

Deemed amendment

(2) Any provision to which subsection (1) applies that has not been amended in accordance with this Act within the one year period shall be deemed upon the expiry of such period to be amended to the extent necessary to bring the terms of the provision into conformity with this Act.

Amendments

(3) A corporation may, by articles of amendment, change the express terms of any provision in its articles to which subsection (1) applies to conform to the terms of the provision as deemed to be amended by subsection (2).

Idem

(4) A corporation shall not restate its articles under section 172 unless the articles of the corporation are in conformity with this Act and, where the articles have been deemed to be amended under subsection (2), the corporation has amended the express terms of the provisions in its articles in accordance with subsection (3).

(5) A shareholder is not entitled to dissent under section 184 in respect of any amendment made for the purpose only of bringing the provisions of articles into conformity with this Act. *New.*

Where s. 184
does not apply

276. The Minister may appoint a Director to carry out the duties and exercise the powers of the Director under this Act. *New.*

Appointment
of Director

277. The *Business Corporations Act*, being chapter 54 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

278. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

279. The short title of this Act is the *Business Corporations Act, 1982*.

Short title

An Act to revise the
Business Corporations Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

*(Reprinted as amended by the
Administration of Justice Committee)*

BILL 6

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

UNIVERSITY OF TORONTO

2

An Act to revise the Business Corporations Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

TABLE OF CONTENTS

	SEC.	PAGE
PART I — Definitions and Application	1, 2	1
PART II — Incorporation	3-21	9
PART III — Corporate Finance	22-44	18
PART IV — Sale of Restricted Shares	45	34
PART V — Indenture Trustees	46-52	35
PART VI — Investment Securities	53-91	40
PART VII — Shareholders	92-108	65
PART VIII — Proxies	109-114	76
PART IX — Directors and Officers	115-137	79
PART X — Insider Liability	138	97
PART XI — Books and Records	139-147	99
PART XII — Auditors and Financial Statements	148-159	105
PART XIII — Investigation	160-166	112
PART XIV — Fundamental Changes	167-185	115
PART XV — Compulsory Acquisitions	186-189	137
PART XVI — Liquidation and Dissolution	190-243	149
PART XVII — Remedies, Offences and Penalties	244-260	167
PART XVIII — General	261-279	177

EXPLANATORY NOTES

The Bill restates and revises the law as it applies to business corporations. The Bill is designed to effect a measure of uniformity between Ontario corporate legislation and legislation passed by the federal and other provincial jurisdictions.

Among the principal features of the Bill are the following:

1. The administrative functions under the Act are given to the Director rather than to the Minister.

The Director is appointed by the Minister.

2. A corporation may be incorporated with a name in English, French or in a combined English and French form and the English or French word for "Limited", "Incorporated" or "Corporation" or the corresponding abbreviations, "Ltée", "Inc." or "Corp." shall be part of the name (s. 10).
3. The statutory list of ancillary corporate powers and the statutory requirement to provide corporate objects have been removed from the Act and in lieu thereof corporations are given the powers of a natural person (s. 15).
4. The concept of constructive notice has been abolished so that no person is deemed to have knowledge of the contents of documents concerning corporations by reason only that the documents have been filed (s. 18).
5. The common law indoor management rule has been codified. This rule permits third parties to rely upon officers, directors or employees having the authority to bind the company where their actions would imply that they have such authority (s. 19).
6. The concept of par value shares has been removed (s. 22).
7. An offering corporation may restrict the issue, transfer, or ownership of its shares if a specified level of ownership is necessary to assist the corporation to hold registration as a securities dealer, or if a specified level of Canadian ownership is necessary to assist the corporation to qualify to receive licences or benefits under any Canadian statute which may be prescribed (s. 42).
8. The sale of restricted shares is permitted where the restrictions are attached in order to qualify the corporation for special grants, licences, etc. (s. 45).
9. An opportunity is given to shareholders to have proposals put before shareholders' meetings (s. 99).
10. An opportunity by way of a unanimous shareholder agreement is provided to shareholders to assume the responsibilities of directors and manage the corporation (s. 108).
11. At least one-third of the directors of an offering corporation shall not be officers or employees of the corporation or of any of its affiliates (s. 115).
12. Provision is made for a floating number of directors with the minimum and maximum numbers being set (s. 124).

13. Provision is made to permit a corporation, a shareholder or the Commission in the case of an offering corporation, to apply to the court for an order setting aside a material contract and requiring a director or officer to account to the corporation where he did not disclose his interest therein as required and thereby made a profit or gain (s. 132).
14. Provision is made to allow corporations to purchase insurance to protect a director where he failed to exercise a proper standard of care (s. 136).
15. Provision has been made for liability of insiders of non-offering corporations (s. 138).
16. Provision is made to require retention of accounting records for only six years from the end of the period to which they relate (s. 140).
17. A non-offering corporation is exempt from the audit requirements of the Act in a financial year if all of the shareholders consent and if its assets do not exceed \$2,500,000 and its sales \$5,000,000 or if it has been exempted by the Director following application and hearing (s. 148).
18. The auditor's report is required to be made in accordance with generally accepted auditing standards (s. 152).
19. Accounting rules for financial statements have been removed from the Act and will be set out in the regulations. Statements will be required to be reported and prepared in accordance with generally accepted accounting principles (s. 154).
20. Short form of amalgamation with affiliates has been provided for (s. 176).
21. The rights of dissenting shareholders to have their shares purchased by the corporation have been expanded to offering corporations (s. 184).
22. Provision is made for expropriation of the shares of a minority of an offering corporation where 90 per cent of non-insiders accept a take over bid or 90 per cent of the holders of a class of security accept an issuer bid (s. 187).
23. Provision is made so that where 90 per cent of a class of shares of an offering corporation has been acquired by an affiliate, a holder of any of the remaining 10 per cent may force the purchase of his shares (s. 188).
24. Provision has been made to protect minority shareholders in "going private" transactions in public offering companies subject to exemption on application to the Commission (s. 189).
25. For the purpose of a hearing to determine whether sufficient cause exists for cancellation of a certificate of incorporation and dissolution of a corporation, the term "sufficient cause" is defined in part (s. 239).
26. The time within which an application for revival may be made when a corporation has been dissolved for default in complying with the *Corporations Tax Act*, or failure to comply with the financial disclosure requirements of the *Securities Act* has been increased from two to five years (s. 240).
27. The existing provision for representative action on behalf of the corporation has been maintained but a new provision setting out in some detail the type of court orders that may be made has been added (s. 245).

28. An oppression remedy has been provided for minority shareholders, creditors and others on application to the court by a complainant, the Director and, in the case of an offering corporation, the Commission (s. 247).
29. Provision has also been made for interim injunctive relief on *ex parte* application (s. 253).
30. The new Act will apply to existing Ontario corporations automatically. The transition section provides that any valid corporate provisions that do not conform to the new Act within one year after it comes into force are deemed to be amended to the extent necessary to bring the terms of such provisions into conformity with the new Act (s. 275).

BILL 6

1982

An Act to revise the Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DEFINITIONS AND APPLICATION

1.—(1) In this Act,

Interpre-
tation

1. “affairs” means the relationships among a corporation, its affiliates and the shareholders, directors and officers of such bodies corporate but does not include the business carried on by such bodies corporate;
2. “affiliate” means an affiliated body corporate within the meaning of subsection (4);
3. “articles” means the original or restated articles of incorporation, articles of amendment, articles of amalgamation, articles of arrangement, articles of continuance, articles of dissolution, articles of reorganization, articles of revival, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated;
4. “associate”, where used to indicate a relationship with any person, means,
 - i. any body corporate of which the person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding,
 - ii. any partner of that person,

- iii. any trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity,
 - iv. any relative of the person, including his spouse, where the relative has the same home as the person, or
 - v. any relative of the spouse of the person where the relative has the same home as the person;
- 5. "auditor" includes a partnership of auditors;
- 6. "beneficial interest" or "beneficial ownership" includes ownership through a trustee, legal representative, agent or other intermediary;
- 7. "body corporate" means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies;
- 8. "certified copy" means,
 - i. in relation to a document of a corporation, a copy of the document certified to be a true copy by an officer thereof,
 - ii. in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
 - iii. in relation to a document in the custody of the Director, a copy of the document certified to be a true copy by the Director and signed by the Director or by such officer of the Ministry as is designated by the regulations;
- 9. "Commission" means the Ontario Securities Commission;
- 10. "corporation" means a body corporate with share capital to which this Act applies;
- 11. "corporation number" means the number assigned by the Director to a corporation in accordance with subsection 8 (1) and "number" in relation to a corporation means the corporation number of that corporation;
- 12. "court" means the High Court of Justice;

13. "day" means a clear day and a period of days shall be deemed to commence the day following the event that began the period and shall be deemed to terminate at midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate at midnight of the day next following that is not a Sunday or holiday;
14. "debt obligation" means a bond, debenture, note or other similar obligation or guarantee of such an obligation of a body corporate, whether secured or unsecured;
15. "Director" means the Director appointed under section 276;
16. "director" means a person occupying the position of director of a corporation by whatever name called and "directors" and "board of directors" include a single director;
17. "endorse" includes imprinting a stamp on the face of articles or other document sent to the Director;
18. "financial statement" means a financial statement referred to in section 153;
19. "incorporator" means a person who signs articles of incorporation;
20. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal representative;
21. "interim financial statement" means a financial statement referred to in section 159;
22. "liability" includes a debt of a corporation arising under section 36, subsection 184 (27) or clause 247 (3) (f) or (g);
23. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
24. "Ministry" means the Ministry of the Minister;
25. "non-resident corporation" means a corporation incorporated in Canada before the 27th day of April, 1965, and that is not deemed to be resident in Canada for the

1970-71,
c. 63 (Can.)

purposes of the *Income Tax Act* (Canada) by subsection 250 (4) of that Act;

26. "number name" means the name of a corporation that consists only of its corporation number followed by the word "Ontario" and one of the words or abbreviations provided for in subsection 10 (1);
27. "offering corporation" means a corporation that is offering its securities to the public within the meaning of subsection (6) and that is not the subject of an order of the Commission deeming it to have ceased to be offering its securities to the public;
28. "officer" means an officer designated under section 133 and includes the chairman of the board of directors, a vice-chairman of the board of directors, the president, a vice-president, the secretary, an assistant secretary, the treasurer, an assistant treasurer and the general manager of a corporation, and any other individual designated an officer of a corporation by by-law or by resolution of the directors or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office;
29. "ordinary resolution" means a resolution that is submitted to a meeting of the shareholders of a corporation and passed, with or without amendment, at the meeting by at least a majority of the votes cast;
30. "person" includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;
31. "personal representative", where used with reference to holding shares in that capacity, means an executor, administrator, guardian, tutor, trustee, receiver or liquidator or the committee of or curator to a mentally incompetent person;
32. "prescribed" means prescribed by the regulations;
33. "redeemable share" means a share issued by a corporation,
 - i. that the corporation may purchase or redeem upon the demand of the corporation, or

- ii. that the corporation is required by its articles to purchase or redeem at a specified time or otherwise upon the demand of a shareholder;
- 34. "registered office" means the office of a corporation located at the address specified in its articles or in the notice most recently filed by the corporation under subsection 14 (3);
- 35. "regulations" means the regulations made under this Act;
- 36. "related person", where used to indicate a relationship with any person, means,
 - i. any spouse, son or daughter of that person,
 - ii. any relative of the person or of his spouse, other than a relative referred to in subparagraph i, who has the same home as the person, or
 - iii. any body corporate of which the person and any of the persons referred to in subparagraph i or ii or the partner or employer of the person, either alone or in combination, beneficially owns, directly or indirectly, voting securities carrying more than 50 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding;
- 37. "resident Canadian" means an individual who is,
 - i. a Canadian citizen ordinarily resident in Canada,
 - ii. a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or
 - iii. a permanent resident within the meaning of the *Immigration Act, 1976* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he first became eligible to apply for Canadian citizenship; 1976-77,
c. 52 (Can.)
- 38. "security" means a share of any class or series of shares or a debt obligation of a body corporate and includes a certificate evidencing such a share or debt obligation;

39. "security interest" means an interest in or charge upon the property of a body corporate by way of mortgage, hypothec, pledge or otherwise, to secure payment of a debt or performance of any other obligation of the body corporate;
40. "send" includes deliver or mail;
41. "senior officer" means,
- i. the chairman of the board of directors, a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office, and
 - ii. each of the five highest paid employees of a corporation, including any individual referred to in subparagraph i;
42. "series", in relation to shares, means a division of a class of shares;
43. "special resolution" means a resolution that is,
- i. submitted to a special meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds of the votes cast, or
 - ii. consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or his attorney authorized in writing;
44. "unanimous shareholder agreement" means an agreement described in subsection 108 (2) or a declaration of a shareholder described in subsection 108 (3);
45. "voting security" means any security other than a debt obligation of a body corporate carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

46. “warrant” means any certificate or other document issued by a corporation as evidence of conversion privileges or options or rights to acquire securities of the corporation. R.S.O. 1980, c. 54, s. 1 (1).

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if, Interpretation:
subsidiary
body
corporate

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary.

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary. Holding
body
corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person. R.S.O. 1980, c. 54, s. 1 (2-4). Affiliated
body
corporate

(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if, Control

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate. R.S.O. 1980, c. 54, s. 1 (5), *amended*.

(6) For the purposes of this Act, a corporation is offering its securities to the public only where, Offering
securities
to public

R.S.O. 1980,
c. 466

- (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid or issuer bid circular has been filed under the *Securities Act* or any predecessor thereof, or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or
- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a corporation that has fewer than fifteen security holders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the corporation shall be deemed to have ceased to be offering its securities to the public. R.S.O. 1980, c. 54, s. 1 (8).

Execution of
documents

(7) Any articles, notice, resolution, requisition, statement or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form each of which is executed by one or more of such persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, shall be deemed to constitute one document for the purposes of this Act. *New.*

Application

2.—(1) This Act, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1980, c. 54, s. 2 (1), *amended*. R.S.O. 1980,
c. 249

(2) Notwithstanding *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 167 (5), this Act applies to a corporation that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. *New*. Idem

(3) This Act does not apply to a corporation that, Idem

(a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature; R.S.O. 1980,
c. 95

(b) is a corporation to which the *Co-operative Corporations Act* applies; R.S.O. 1980,
c. 91

(c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*;

(d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies. R.S.O. 1980, c. 54, s. 2 (2), *amended*. R.S.O. 1980,
c. 102

PART II

INCORPORATION

3.—(1) Where the practice of a profession is governed by an Act, a corporation may practise the profession only if that Act expressly permits the practice of the profession by a corporation and subject to the provisions of such Act. R.S.O. 1980, c. 54, s. 3 (3), *amended*. Professions

(2) A corporation may be incorporated under this Act with its powers restricted by its articles to lending and investing money on mortgage of real estate or otherwise, or with its powers restricted by its articles to accepting and executing the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accepting the duty of and acting generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of the *Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the corporation, shall be limited by its articles to five, and no such corporation shall issue debt obligations except to its shareholders, or borrow money on the security of its property except Incorporation

from its shareholders, or receive money on deposit or offer its securities to the public. R.S.O. 1980, c. 54, s. 3 (2), *amended*.

Articles of
incorporation

4.—(1) One or more individuals or bodies corporate or any combination thereof may incorporate a corporation by signing articles of incorporation and complying with section 6.

Idem

(2) Subsection (1) does not apply to an individual who,

- (a) is less than eighteen years of age;
- (b) is of unsound mind and has been so found by a court in Canada or elsewhere; or
- (c) has the status of bankrupt. R.S.O. 1980, c. 54, s. 4 (1), *amended*.

Contents of
articles

5.—(1) Articles of incorporation shall follow the prescribed form and shall set out, in respect of the proposed corporation,

- (a) the name of the corporation;
- (b) the municipality or geographic township within Ontario and the address including street name and number, if any, where the registered office is to be located;
- (c) the classes and any maximum number of shares that the corporation is authorized to issue, and
 - (i) if there are to be two or more classes of shares, the rights, privileges, restrictions and conditions attaching to each class of shares, and
 - (ii) if a class of shares may be issued in series, the authority given to the directors to fix the number of shares in, and to determine the designation of, and the rights, privileges, restrictions and conditions attaching to the shares of, each series;
- (d) if the issue, transfer or ownership of shares of the corporation is to be restricted, a statement to that effect and a statement as to the nature of the restriction;
- (e) the number of directors or, subject to section 120, the minimum and maximum number of directors, and, for each director,
 - (i) the surname of the director,
 - (ii) the first or other given name by which the director is commonly known,

- (iii) the first letters of the other given names, if any, of the director,
 - (iv) the address, including the street name and number, if any, of the director's residence, and
 - (v) whether the director is a resident Canadian;
- (f) any restrictions on the business that the corporation may carry on or on the powers that the corporation may exercise;
- (g) for each incorporator who is an individual,
- (i) the surname of the individual,
 - (ii) the first or other given name by which the individual is commonly known,
 - (iii) the first letters of the other given names, if any, of the individual, and
 - (iv) the address including the street name and number, if any, of the individual's residence,
- and for each incorporator that is a body corporate,
- (v) the corporate name, and
 - (vi) the location of its registered office or principal place of business, including the street name and number, if any; and
- (h) any other matter required by this Act or the regulations to be set out in the articles. R.S.O. 1980, c. 54, s. 4 (2), *amended*.

(2) If the articles name as first director an individual who is not an incorporator, his consent, in prescribed form, to act as a first director shall accompany the articles. Where consent required

(3) The articles may set out any provisions permitted by this Act or permitted by law to be set out in the by-laws of the corporation. Provisions in articles

(4) Subject to subsection (5), if a greater number of votes of directors or shareholders are required by the articles or a unanimous shareholder agreement than are required by this Act to effect any action, the provisions of the articles or of the unanimous shareholder agreement prevail. Where articles, etc., prevail

Votes to
remove
director

(5) The articles shall not require a greater number of votes of shareholders to remove a director than the number specified in section 122. *New.*

Certificate of
incorporation

6. An incorporator shall send to the Director articles of incorporation and, upon receipt of the articles, the Director shall endorse thereon, in accordance with section 272, a certificate which shall constitute the certificate of incorporation. R.S.O. 1980, c. 54, s. 5 (2), *amended*.

Certificate of
incorporation

7. A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate, except in a proceeding under section 239 to cancel the certificate for cause. R.S.O. 1980, c. 54, s. 5 (3).

Assignment of
number

8.—(1) Every corporation shall be assigned a number by the Director and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate relating to the corporation endorsed or issued by the Director.

Idem

(2) Where no name is specified in the articles that are delivered to the Director, the corporation shall be assigned a number name.

Idem

(3) Where, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number or number name that is the same as the number or name of any other corporation previously assigned, the Director may, without holding a hearing, issue a certificate of amendment to the articles of the corporation changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(4) Where for any reason the Director has endorsed a certificate on articles that sets out the corporation number incorrectly, the Director may substitute a corrected certificate that bears the date of the certificate it replaces.

Idem

(5) The file number that has been assigned to each corporation by the Minister prior to this section coming into force shall be deemed to be that corporation's number. R.S.O. 1980, c. 54, s. 6, *amended*.

Name
prohibition

9.—(1) Subject to subsection (2), a corporation shall not have a name,

(a) that contains a word or expression prohibited by the regulations;

(b) that is the same as or, except where a number name is proposed, similar to,

(i) the name of a known,

(A) body corporate,

(B) trust,

(C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies itself,

if the use of that name would be likely to deceive; or

(c) that does not meet the requirements prescribed by the regulations.

(2) A corporation may have a name described in clause (1) (b) upon complying with conditions prescribed by the regulations. Exception to subs. (1)

(3) There shall be filed with the Director such documents relating to the name of the corporation as may be prescribed by the regulations. Documents filed R.S.O. 1980, c. 54, s. 6, *amended*.

10.—(1) The word “Limited”, “Limitée”, “Incorporated”, “Incorporée”, or “Corporation” or the corresponding abbreviations “Ltd.”, “Ltée”, “Inc.” or “Corp.” shall be part, in addition to any use in a figurative or descriptive sense, of the name of every corporation, but a corporation may be legally designated by either the full or the abbreviated form. Use of “Limited”, “Limitée”, etc.

(2) Subject to the provisions of this Act and the regulations, a corporation may set out its name in its articles in an English form, a French form, an English form and a French form or a combined English and French form and it may be legally designated by any such name. Corporate name

(3) For the purposes of subsections (1) and (2), only letters Idem from the alphabet of the English language or Arabic numerals or

a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation.

Idem

(4) Subject to the provisions of this Act and the regulations, a corporation may have in its articles a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name.

Idem

(5) Notwithstanding subsection (4), a corporation shall set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation and in all documents sent to the Director under this Act. R.S.O. 1980, c. 54, s. 8, *amended*.

Unauthorized
use of
“Limited”,
etc.

11.—(1) No person, while not incorporated, shall trade or carry on a business or undertaking under a name in which “Limited”, “Incorporated” or “Corporation” or any abbreviation thereof, or any version thereof in another language, is used.

Idem

(2) Where a corporation carries on business or identifies itself to the public by a name or style other than as provided in the articles, that name or style shall not include the word “Limited”, “Incorporated”, or “Corporation” or any abbreviation thereof or any version thereof in another language. R.S.O. 1980, c. 54, s. 10, *amended*.

Change of
name if
objectionable

12.—(1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 9, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to
perform
undertaking

(2) Where an undertaking to dissolve or change its name is given by a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of a certificate of amendment, the articles are amended accordingly.

Idem

(3) Where an undertaking to dissolve or change its name is given by a person who is not a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the

certificate, the articles are amended accordingly. R.S.O. 1980, c. 54, s. 11, *amended*.

13. A corporation may, but need not, have a corporate seal. R.S.O. 1980, c. 54, s. 12 (1), *amended*. Corporate seal

14.—(1) A corporation shall at all times have a registered office in the municipality or geographic township within Ontario specified in its articles. Registered office

(2) The head office of every corporation incorporated prior to the day this Act comes into force shall be deemed to be the registered office of the corporation. Idem

(3) A corporation may by resolution of its directors change the location of its registered office within a municipality or geographic township and shall, within ten days after the passing of the resolution, file a notice of change under the *Corporations Information Act*. Change of address

(4) Failure to comply with subsection (3) does not affect the validity of the resolution. R.S.O. 1980, c. 54, s. 13, *amended*. Validity

15. A corporation has the capacity and the rights, powers and privileges of a natural person. R.S.O. 1980, c. 54, s. 14 (1), *amended*. Corporate powers

16. A corporation has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit. R.S.O. 1980, c. 54, s. 14 (4), *amended*. Capacity to act outside Ontario

17.—(1) It is not necessary for a by-law to be passed in order to confer any particular power on the corporation or its directors. *New.* Corporate power not dependent on by-law

(2) A corporation shall not carry on any business or exercise any power that it is restricted by its articles from carrying on or exercising, nor shall the corporation exercise any of its powers in a manner contrary to its articles. R.S.O. 1980, c. 54, s. 14 (3), *amended*. Power limited by articles, etc.

(3) Notwithstanding subsection (2) and subsection 3 (2), no act of a corporation including a transfer of property to or by the corporation is invalid by reason only that the act is contrary to its articles, by-laws, a unanimous shareholder agreement or this Act. R.S.O. 1980, c. 54, s. 15 (1), *amended*. Acting outside powers

18. No person is affected by or is deemed to have notice or knowledge of the contents of a document concerning a corporation Where notice is not deemed

by reason only that the document has been filed with the Director or is available for inspection at an office of the corporation. *New.*

Indoor
management
rule

19. A corporation or a guarantor of an obligation of a corporation may not assert against a person dealing with the corporation or with any person who has acquired rights from the corporation that,

- (a) the articles, by-laws or any unanimous shareholder agreement have not been complied with;
- (b) the persons named in the most recent notice filed under the *Corporations Information Act*, or named in the articles, whichever is more current, are not the directors of the corporation;
- (c) the location named in the most recent notice filed under subsection 14 (3) or named in the articles, whichever is more current, is not the registered office of the corporation;
- (d) a person held out by a corporation as a director, an officer or an agent of the corporation has not been duly appointed or does not have authority to exercise the powers and perform the duties that are customary in the business of the corporation or usual for such director, officer or agent;
- (e) a document issued by any director, officer or agent of a corporation with actual or usual authority to issue the document is not valid or not genuine; or
- (f) financial assistance referred to in section 20 or a sale, lease or exchange of property referred to in subsection 183 (3) was not authorized,

R.S.O. 1980,
c. 96

except where the person has or ought to have, by virtue of his position with or relationship to the corporation, knowledge to that effect. *New.*

Financial
assistance by
corporation

20.—(1) Except as permitted under subsection (2), a corporation or any corporation with which it is affiliated, shall not, directly or indirectly, give financial assistance by means of a loan, guarantee or otherwise,

- (a) to any shareholder, director, officer or employee of the corporation or affiliated corporation or to an associate of any such person for any purpose; or

- (b) to any person for the purpose of or in connection with a purchase of a share, or a security convertible into or exchangeable for a share, issued or to be issued by the corporation or affiliated corporation,

where there are reasonable grounds for believing that,

- (c) the corporation is or, after giving the financial assistance, would be unable to pay its liabilities as they become due; or
- (d) the realizable value of the corporation's assets, excluding the amount of any financial assistance in the form of a loan and in the form of any secured guarantee, after giving the financial assistance, would be less than the aggregate of the corporation's liabilities and stated capital of all classes.

(2) A corporation may give financial assistance by means of a ^{Idem} loan, guarantee or otherwise,

- (a) to any person in the ordinary course of business if the lending of money is part of the ordinary business of the corporation;
- (b) to any person on account of expenditures incurred or to be incurred on behalf of the corporation;
- (c) to its holding body corporate if the corporation is a wholly owned subsidiary of the holding body corporate;
- (d) to a subsidiary body corporate of the corporation;
- (e) to employees of the corporation or any of its affiliates,
 - (i) to enable or assist them to purchase or erect living accommodation for their own occupation, or
 - (ii) in accordance with a plan for the purchase of shares of the corporation or any of its affiliates.

(3) A contract made by a corporation in contravention of this section may be enforced by the corporation or by a lender for value in good faith without notice of the contravention. *New.* ^{Validity of contract}

21.—(1) Except as provided in this section, a person who enters into an oral or written contract in the name of or on behalf of a corporation before it comes into existence is personally bound by the contract and is entitled to the benefits thereof. ^{Contract prior to corporate existence}

Adoption of
contract by
corporation

(2) A corporation may, within a reasonable time after it comes into existence, by any action or conduct signifying its intention to be bound thereby, adopt an oral or written contract made before it came into existence in its name or on its behalf, and upon such adoption,

(a) the corporation is bound by the contract and is entitled to the benefits thereof as if the corporation had been in existence at the date of the contract and had been a party thereto; and

(b) a person who purported to act in the name of or on behalf of the corporation ceases, except as provided in subsection (3), to be bound by or entitled to the benefits of the contract.

Non-adoption
of contract

(3) Except as provided in subsection (4), whether or not an oral or written contract made before the coming into existence of a corporation is adopted by the corporation, a party to the contract may apply to a court for an order fixing obligations under the contract as joint or joint and several or apportioning liability between the corporation and the person who purported to act in the name of or on behalf of the corporation, and, upon such application, the court may make any order it thinks fit.

Exception
to subs. (1)

(4) If expressly so provided in the oral or written contract referred to in subsection (1), a person who purported to act in the name of or on behalf of the corporation before it came into existence is not in any event bound by the contract or entitled to the benefits thereof. R.S.O. 1980, c. 54, s. 19, *amended*.

PART III

CORPORATE FINANCE

Shares

22.—(1) Shares of a corporation shall be in registered form and shall be without nominal or par value.

Idem

(2) Shares with nominal or par value of a corporation incorporated before the day this section comes into force shall be deemed to be shares without nominal or par value.

Rights of
shareholders

(3) Where a corporation has only one class of shares, the rights of the holders thereof are equal in all respects and include the rights,

(a) to vote at all meetings of shareholders; and

(b) to receive the remaining property of the corporation upon dissolution.

Idem

(4) The articles may provide for more than one class of shares and where they so provide,

- (a) the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out therein; and
- (b) each of the rights set out in subsection (3) shall be attached to at least one class of shares, but both such rights are not required to be attached to any one class.

(5) Notwithstanding subsection (4), the right of the holders of a class of shares to one vote for each share at all meetings of shareholders other than meetings of the holders of another class of shares, or to receive the remaining property of the corporation upon dissolution, need not be set out in the articles. R.S.O. 1980, c. 54, s. 23, *amended*. Saving provision

(6) Except as provided in section 25, each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1980, c. 54, s. 27. Shares within a class equal

23.—(1) Subject to the articles, the by-laws, any unanimous shareholder agreement and section 26, shares may be issued at such time and to such persons and for such consideration as the directors may determine. Issuance of shares

(2) Shares issued by a corporation are non-assessable and the holders are not liable to the corporation or to its creditors in respect thereof. *New*. Shares non-assessable

(3) A share shall not be issued until the consideration for the share is fully paid in money or in property or past service that is not less in value than the fair equivalent of the money that the corporation would have received if the share had been issued for money. R.S.O. 1980, c. 54, s. 42 (4), *amended*. Fully-paid shares

(4) The directors shall, in connection with the issue of any share not issued for money, determine, Value determined by directors

(a) the amount of money the corporation would have received if the share had been issued for money; and

(b) either,

(i) the fair value of the property or past service in consideration of which the share is issued, or

(ii) that such property or past service has a fair value that is not less than the amount of money referred to in clause (a).

(5) In determining the value of property or past service, the directors may take into account reasonable charges and expenses of organization and reorganization and payments for property and past service reasonably expected to benefit the corporation. Idem

Interpre-
tation of
property

R.S.C. 1952,
c. 148

(6) For the purposes of subsection (3) and of subsection 24 (3), a document evidencing indebtedness of a person to whom shares are to be issued, or of any other person not dealing at arm's length with such person within the meaning of that term in the *Income Tax Act* (Canada), does not constitute property. *New.*

Separate
capital
account

24.—(1) A corporation shall maintain a separate stated capital account for each class and series of shares it issues.

Idem

(2) A corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration it receives as determined by the directors which, in the case of shares not issued for money, shall be the amount determined by the directors in accordance with clause 23 (4) (a) or, if a determination is made by the directors in accordance with subclause 23 (4) (b) (i), the amount so determined.

Exception to
subs. (2)

(3) Notwithstanding subsection (2) and subsection 23 (3), where a corporation issues shares,

(a) in exchange for,

(i) property of a person who immediately before the exchange does not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada), or

(ii) shares of a body corporate that immediately before the exchange or that, because of the exchange, does not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada); or

(b) under an agreement referred to in subsection 174 (1) or an arrangement referred to in clause 181 (1) (c) or (d) or to shareholders of an amalgamating corporation who receive the shares in addition to or instead of securities of the amalgamated corporation,

the corporation may, subject to subsection (4), add all or any portion of the consideration it received for the shares to the appropriate stated capital account.

Addition to
stated capital
account

(4) On the issue of a share, a corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

(5) Notwithstanding subsection (2), on the day this Act comes into force or at such time thereafter as a corporation has been continued under this Act, as the case may be, the amount in the stated capital account maintained by a corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and, after such time, a corporation may, upon complying with subsection (6), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account.

Stated capital
at time of
coming into
force or
continuance

(6) Where a corporation proposes to add any amount to a stated capital account that it maintains in respect of a class or series of shares otherwise than under subsection 38 (2), the addition to the stated capital account must be approved by special resolution if,

Additions to
stated capital
account

(a) the amount to be added,

(i) was not received by the corporation as consideration for the issue of shares, or

(ii) was received by the corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and

(b) the corporation has outstanding shares of more than one class or series.

(7) Where a class or series of shares of a corporation would be affected by the addition of an amount to any stated capital account under subsection (6) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

Idem

(8) Stated capital accounts of a corporation may be expressed in one or more currencies.

Expressed in
one or more
currencies

(9) A corporation shall not reduce its stated capital or any stated capital account except in the manner provided in this Act.

Reduction in
stated capital

(10) The provisions of this Act relating to stated capital do not apply to an open-end mutual fund.

Non-applica-
tion of Act

(11) For the purposes of this section, "open-end mutual fund" means an offering corporation that carries on only the business of

Interpretation

investing the consideration it receives for the shares it issues, and all or substantially all the shares of which are redeemable upon the demand of the holders of such shares. R.S.O. 1980, c. 54, s. 31, *amended*.

Special shares
in series

25.—(1) The articles may authorize the issue of any class of shares in one or more series and may authorize the directors to fix the number of shares in, and to determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series, subject to the limitations set out in the articles.

Proportionate
abatement

(2) If any amount,

(a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or

(b) payable on return of capital in the event of the liquidation, dissolution or winding up of a corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

(c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or

(d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be.

No priority of
shares of same
class

(3) No rights, privileges, restrictions or conditions attached to a series of shares authorized under this section shall confer upon the shares of a series a priority in respect of,

(a) dividends; or

(b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class. R.S.O. 1980, c. 54, s. 28, *amended*.

Articles
designating
special shares

(4) Before the issue of shares of a series authorized under this section, the directors shall send to the Director articles of amendment in the prescribed form designating such series of shares.

Certificate re
special shares

(5) Upon receipt of articles of amendment designating a series of shares, the Director shall endorse thereon, in accordance with

section 272, a certificate which shall constitute the certificate of amendment. R.S.O. 1980, c. 54, s. 181, *amended*.

26. If it is so provided in the articles or a unanimous shareholder agreement, no shares of a class or series shall be issued unless the shares have first been offered to the shareholders of the corporation holding shares of that class or series or of another class or series on such terms as are provided in the articles or unanimous shareholder agreement. *New.* Pre-emptive rights

27.—(1) A corporation may issue warrants as evidence of conversion privileges or options or rights to acquire securities of the corporation, and shall set out the conditions thereof, Conversion privileges, etc.

(a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or

(b) in separate certificates or other documents.

(2) Conversion privileges and options or rights to purchase securities of a corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached. Idem

(3) Where a corporation has granted privileges to convert any securities, other than shares issued by the corporation, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and where the articles limit the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights. *New.* Corporation to maintain sufficient reserve

28.—(1) Except as provided in subsection (2) and sections 29 to 32, a corporation, Subsidiaries not to hold shares of holding bodies corporate

(a) shall not hold shares in itself or in its holding body corporate; and

(b) shall not permit any of its subsidiary bodies corporate to hold shares of the corporation.

(2) A corporation shall cause a subsidiary body corporate of the corporation that holds shares of the corporation to sell or otherwise dispose of those shares within five years from, Disposal of shares

(a) the date the body corporate became a subsidiary of the corporation; or

- (b) if the subsidiary held such shares on the 30th day of April, 1954, and has continued from that date to hold such shares, the coming into force of this Act. R.S.O. 1980, c. 54, s. 46, *part.*

Exception to
s. 28

29.—(1) A corporation may in the capacity of a legal representative hold shares in itself or in its holding body corporate unless it or the holding body corporate or a subsidiary of either of them has a beneficial interest in the shares.

Idem

(2) A corporation may permit a subsidiary body corporate to hold shares of the corporation in the capacity of a legal representative unless the corporation or the subsidiary body corporate or a subsidiary of either of them has a beneficial interest in the shares.

Idem

(3) A corporation may hold shares in itself or in its holding body corporate by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. R.S.O. 1980, c. 54, s. 46.

Exception
relating to
Canadian
ownership

(4) A corporation may, for the purpose of assisting the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control, hold shares in itself that,

- (a) are not restricted for the purpose of assisting the corporation or any of its affiliates or associates to so qualify; or
- (b) are shares into which shares held under clause (a) were converted by the corporation that are restricted for the purpose of assisting the corporation to so qualify and that were not previously held by the corporation.

Prohibited
transfers

(5) A corporation shall not transfer shares held under subsection (4) to any person unless the corporation is satisfied, on reasonable grounds, that the ownership of the shares as a result of the transfer would assist the corporation or any of its affiliates or associates to achieve the purpose set out in subsection (4).

Where
shares are
transferred

(6) Where shares held under subsection (4) are transferred by a corporation, subsections 23 (1), (3), (4), (5) and (6), clause 127 (3) (c) and subsection 130 (1) apply, with such modifications as the circumstances require, in respect of the transfer as if the transfer were an issue.

Transfer
not void

(7) No transfer of shares by a corporation shall be void or voidable solely because the transfer is in contravention of subsection (5).

(8) A corporation holding shares in itself or in its holding body corporate or a subsidiary body corporate of a corporation holding shares of the corporation shall not vote or permit those shares to be voted unless the corporation or subsidiary body corporate, as the case may be,

Corporation holding shares in itself

(a) holds the shares in the capacity of a legal representative; and

(b) has complied with section 48 of the *Securities Act* where that section is applicable. *New.*

R.S.O. 1980, c. 466

30.—(1) Subject to subsection (2) and to its articles, a corporation may purchase or otherwise acquire any of its issued shares or warrants.

Purchase of issued shares permitted

(2) A corporation shall not make any payment to purchase or otherwise acquire shares issued by it if there are reasonable grounds for believing that,

Where prohibited

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,

(i) its liabilities, and

(ii) its stated capital of all classes. R.S.O. 1980, c. 54, s. 38.

31.—(1) Notwithstanding subsection 30 (2) but subject to subsection (3) of this section and to its articles, a corporation may purchase or otherwise acquire shares issued by it to,

Where s. 30 (2) does not apply

(a) settle or compromise a debt or claim asserted by or against the corporation;

(b) eliminate fractional shares; or

(c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation.

- Idem (2) Notwithstanding subsection 30 (2), a corporation may purchase or otherwise acquire shares issued by it to,
- (a) satisfy the claim of a shareholder who dissents under section 184; or
 - (b) comply with an order under section 247.
- Restriction on payment (3) A corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that,
- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
 - (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and
 - (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired.
- R.S.O. 1980, c. 54, s. 38, *amended*.
- Redemption of shares **32.**—(1) Notwithstanding subsection 30 (2) and subsection 31 (3), but subject to subsection (2) and to its articles, a corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price thereof stated in the articles or calculated according to a formula stated in the articles.
- Restriction on redemption (2) A corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,
- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
 - (b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,
 - (i) its liabilities, and

- (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, rateably with or prior to the holders of the shares to be purchased or redeemed. *New.*

33. A corporation may accept from any shareholder a share of the corporation surrendered to it as a gift, but may not extinguish or reduce a liability in respect of an amount unpaid on any such share except in accordance with section 34. R.S.O. 1980, c. 54, s. 41, *amended*. Donation of share

34.—(1) Subject to subsection (4), a corporation may by special resolution, Reduction of liability re unpaid share: stated capital

- (a) extinguish or reduce a liability in respect of an amount unpaid on any share; or
- (b) reduce its stated capital for any purpose including, without limiting the generality of the foregoing, for the purpose of,

- (i) distributing to the holders of issued shares of any class or series of shares an amount not exceeding the stated capital of the class or series, or

- (ii) declaring its stated capital to be reduced by,

- (A) an amount that is not represented by realizable assets, or

- (B) an amount otherwise determined in respect of which no amount is to be distributed to holders of issued shares of the corporation.

(2) Where a class or series of shares of a corporation would be affected by a reduction of stated capital under clause (1) (b) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote. Right to vote where reduction under subs. (1)

Account to be
reduced
specified

(3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital effected by the special resolution will be made.

Restriction on
reduction

(4) A corporation shall not take any action to extinguish or reduce a liability in respect of an amount unpaid on a share or to reduce its stated capital for any purpose other than the purpose mentioned in sub-subclause (1) (b) (ii) (A) if there are reasonable grounds for believing that,

- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due; or
- (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities.

Application for
order where
improper
reduction

(5) A creditor of a corporation is entitled to apply to the court for an order compelling a shareholder or other recipient,

- (a) to pay to the corporation an amount equal to any liability of the shareholder that was extinguished or reduced contrary to this section; or
- (b) to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section.

Time
limitation

(6) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the action complained of. *New.*

Class action

(7) Where it appears that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined. R.S.O. 1980, c. 54, s. 101 (4), *amended*.

(8) No person holding shares in the capacity of a personal representative and registered on the records of the corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the person named is subject to all liabilities imposed by this section. R.S.O. 1980, c. 54, s. 101 (5), *amended*.

Shareholder holding shares in fiduciary capacity

(9) This section does not affect any liability that arises under section 130. *New*.

s. 130, does not apply

35.—(1) Upon a purchase, redemption or other acquisition by a corporation under section 30, 31, 32, 40 or 184 or clause 247 (3) (*f*) of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

Amount deducted from account upon purchase, etc., of shares

(2) A corporation shall deduct the amount of a payment made by the corporation to a shareholder under clause 247 (3) (*g*) from the stated capital account maintained for the class or series of shares in respect of which the payment was made.

Idem

(3) A corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 34 (3).

Adjustment in stated capital account

(4) Upon a change under section 167, 185 or 247 of issued shares of a corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

Idem

(a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and

(b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to

be maintained for the class or series of shares into which the shares have been changed or converted.

Idem

(5) For the purpose of subsection (4) and subject to its articles, where a corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

Status of shares purchased, etc.

(6) Shares of any class or series or fractional shares issued by a corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the articles limit the number of authorized shares of the class or series, may be restored to the status of authorized but unissued shares of the class.

Interpretation

(7) For the purposes of this section,

(a) a corporation holding shares in itself as permitted by subsections 29 (1) and (2) shall be deemed not to have purchased, redeemed or otherwise acquired the shares; and

(b) a corporation holding shares in itself under clause 29 (4) (a) shall be deemed not to have purchased, redeemed or otherwise acquired the shares at the time they were acquired, but,

(i) any of those shares that are held by the corporation at the expiration of two years, and

(ii) any shares into which any of those shares were converted by the corporation and held under clause 29 (4) (b) that are held by the corporation at the expiration of two years after the shares from which they were converted were acquired,

shall be deemed to have been acquired at the expiration of the two years.

Conversion of shares

(8) Where shares of a class or series are changed under section 167, 185 or 247, or converted pursuant to their terms, into the same or another number of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted and, if the articles limit the number of shares of either of such classes or

series, the number of authorized shares of such class or series is changed and the articles are amended accordingly. R.S.O. 1980, c. 54, s. 35 (5), *amended*.

36.—(1) A contract with a corporation providing for the purchase of shares of the corporation by the corporation is specifically enforceable against the corporation except to the extent that the corporation cannot perform the contract without thereby being in breach of section 30 or 31. Contract with corporation re purchase of its shares

(2) In any action brought on a contract referred to in subsection (1), the corporation has the burden of proving that performance thereof is prevented by section 30 or 31. Idem

(3) Until the corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or in a liquidation to be ranked subordinate to the rights of creditors but in priority to the other shareholders. Idem
New.

37. The directors may authorize the corporation to pay a reasonable commission to any person in consideration of his purchasing or agreeing to purchase shares of the corporation from the corporation or from any other person, or procuring or agreeing to procure purchasers for any such shares. R.S.O. 1980, c. 54, s. 43 (1), *amended*. Commission on sale of shares

38.—(1) The directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property. R.S.O. 1980, c. 54, s. 146 (2), *amended*. Declaration of dividends

(2) If shares of a corporation are issued in payment of a dividend, the corporation shall add to the stated capital account maintained or to be maintained for the shares of the class or series issued in payment of the dividend the declared amount of the dividend stated as an amount of money. R.S.O. 1980, c. 54, s. 148, *amended*. Stock dividend

(3) The directors shall not declare and the corporation shall not pay a dividend if there are reasonable grounds for believing that, When dividend not to be declared

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets would thereby be less than the aggregate of,

(i) its liabilities, and

(ii) its stated capital of all classes. R.S.O. 1980, c. 54, s. 146 (1, 3), *amended*.

Corporations
with wasting
assets

39.—(1) Notwithstanding anything in this Act, a corporation,

(a) that for the time being carries on as its principal business the business of operating a producing mining, gas or oil property owned and controlled by it;

(b) at least 75 per cent of the assets of which are of a wasting character; or

(c) incorporated for the purpose of acquiring the assets or a substantial part of the assets of a body corporate and administering such assets for the purpose of converting them into cash and distributing the cash among the shareholders of the corporation,

may declare and pay dividends out of the funds derived from the operations of the corporation.

Extent of
impairment of
capital

(2) The powers conferred by subsection (1) may be exercised notwithstanding that the value of the net assets of the corporation may be thereby reduced to less than its stated capital of all classes if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the corporation, exclusive of its stated capital of all classes. R.S.O. 1980, c. 54, s. 147 (1, 2).

Special
resolution

(3) The powers conferred by subsection (1) may be exercised only under the authority of a special resolution. R.S.O. 1980, c. 54, s. 147 (3), *amended*.

Lien on share

40.—(1) Subject to subsection 56 (3), the articles or by-laws may provide that the corporation has a lien on a share registered in the name of a shareholder or his legal representative for a debt of that shareholder to the corporation.

Where subs. (1)
does not apply

(2) Subsection (1) does not apply to a corporation that has shares listed on a stock exchange recognized by the Commission.

Enforcement of
lien

(3) A corporation may enforce a lien referred to in subsection (1) in accordance with its articles or by-laws. R.S.O. 1980, c. 54, s. 45 (3), *amended*.

Shares personal
property

41. The shares of a corporation are personal property. R.S.O. 1980, c. 54, s. 44.

42.—(1) A corporation shall not impose restrictions on the issue, transfer, or ownership of shares of any class or series except such restrictions as are authorized by its articles. Restrictions on issue, transfer, etc.

(2) A corporation that has imposed restrictions on the issue, transfer, or ownership of its shares of any class or series shall not offer any of its shares to the public unless the restrictions are necessary, No public offer if issue, transfer, etc., restricted—exceptions

(a) by or under any Act of Canada or Ontario as a condition to the obtaining, holding or renewal of authority to engage in any activity necessary to its undertaking;

(b) for the purpose of achieving or preserving its status as a Canadian corporation for the purpose of any Act of Canada or Ontario;

(c) to limit to a specified level the ownership of its shares by any person for the purpose of assisting the corporation or any of its affiliates or associates to qualify under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration as a dealer, or to qualify for membership in a stock exchange in Ontario recognized as such by the Commission; or R.S.O. 1980, c. 466

(d) to attain or to maintain a specified level of Canadian ownership or control for the purpose of assisting the corporation or any of its affiliates or associates to qualify to receive licences, permits, grants, payments or other benefits under any prescribed Act of Canada or a province or ordinance of a territory.

(3) Nothing in clause (2) (d) authorizes a corporation to impose restrictions on the issue, transfer or ownership of shares of any class or series of which any shares are outstanding unless the shares are already subject to restrictions described in clause (2) (d). Application of subs. (2) (d) limited R.S.O. 1980, c. 54, s. 45 (1, 2), *amended*.

(4) A corporation may, Idem

(a) limit the number of its shares that may be owned; or

(b) prohibit the ownership of shares,

by any person whose ownership would adversely affect the ability of the corporation or any of its affiliates or associates to attain or maintain a level of Canadian ownership or control specified in its articles that equals or exceeds a specified level referred to in clause (2) (d). *New.*

43. Nothing in this Act prohibits the issue of debt obligations in bearer form. Bearer debt obligations R.S.O. 1980, c. 54, s. 52.

Irredeemable
debt obligation

44.—(1) A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. R.S.O. 1980, c. 54, s. 53.

Debt
obligations

(2) Debt obligations issued, pledged, hypothecated or deposited by a corporation are not redeemed by reason only that the indebtedness evidenced by the debt obligations or in respect of which the debt obligations are issued, pledged, hypothecated or deposited is repaid.

Idem

(3) Debt obligations issued by a corporation and purchased, redeemed or otherwise acquired by it may be cancelled or, subject to any applicable trust indenture or other agreement, may be reissued, pledged or hypothecated to secure any obligation of the corporation then existing or thereafter incurred, and any such acquisition and reissue, pledge or hypothecation is not a cancellation of the debt obligations. *New.*

PART IV

SALE OF RESTRICTED SHARES

Restricted
shares held
in contra-
vention—
sale by
corporation

45.—(1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series in order to assist the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control may, for that purpose or for the purpose of attaining or maintaining a level of Canadian ownership or control specified in its articles, under such conditions and after giving such notice as may be prescribed, sell, as if it were the owner thereof, any of the restricted shares that are owned, or that the directors determine in such manner as may be prescribed may be owned, contrary to the restrictions.

Obligations
of directors
in sale

(2) Where shares are to be sold by a corporation under subsection (1), the directors of the corporation shall select the shares for sale in good faith and in a manner that is not unfairly prejudicial to, and does not unfairly disregard the interests of, the holders of the shares in the restricted class or series taken as a whole.

Effect of
sale

(3) Where shares are sold by a corporation under subsection (1), the owner of the shares immediately prior to the sale shall, by that sale, be divested of his interest in the shares, and the person who, but for the sale, would be the registered holder of the shares or a person who satisfies the corporation that, but for the sale, he could properly be treated as the registered holder of the shares

under section 67 shall, from the time of the sale, be entitled to receive only the net proceeds of the sale, together with any income earned thereon from the beginning of the month next following the date of the receipt by the corporation of the proceeds of the sale, less any taxes thereon and any costs of administration of a trust fund constituted under subsection (5) in relation thereto.

(4) Subsections 67 (4), (5) and (6) apply in respect of the person who is entitled under subsection (3) to receive the proceeds of a sale of shares under subsection (1) as if the proceeds were a security and the person were a registered holder of the security. s. 67 (4-6) apply

(5) The proceeds of a sale by a corporation under subsection (1) constitute a trust fund in the hands of the corporation for the benefit of the person entitled under subsection (3) to receive the proceeds of the sale, and any such trust fund may be commingled by the corporation with other such trust funds and shall be invested in such manner as may be prescribed. Proceeds of sale to be trust fund

(6) Reasonable costs of administration of a trust fund referred to in subsection (5) may be deducted from the trust fund and any income earned thereon. Cost of administration

(7) Subject to this section, a corporation may transfer any trust fund referred to in subsection (5) and the administration thereof, to a trust company in Canada registered as such under the laws of Canada, a province or a territory, and the corporation is thereupon discharged of all further liability in respect of the trust fund. Appointment of trust company

(8) A receipt signed by a person entitled under subsection (3) to receive the proceeds of a sale that constitute a trust fund under subsection (5) shall be a complete discharge of the corporation and of any trust company to which a trust fund is transferred under subsection (7), in respect of the trust fund and income earned thereon paid to the person. Discharge of corporation and trust company

(9) A trust fund described in subsection (5) together with any income earned thereon, less any taxes thereon and costs of administration, that has not been claimed, by a person entitled under subsection (3) to receive the proceeds of a sale that constitute the trust fund for a period of ten years after the date of the sale is forfeited to the Crown. *New.* Forfeit to Crown

PART V

INDENTURE TRUSTEES

46.—(1) In this Part,

Interpretation

(a) “event of default” means an event specified in a trust indenture on the occurrence of which,

(i) a security interest constituted by the trust indenture becomes enforceable, or

(ii) the principal, interest and other moneys payable thereunder become or may be declared to be payable before the date of maturity,

but the event is not an event of default until all conditions prescribed by the trust indenture in connection with such event for the giving of notice or the lapse of time or otherwise have been satisfied;

(b) "trust indenture" means any deed, indenture or other instrument, including any supplement or amendment thereto, made by a body corporate under which the body corporate issues or guarantees debt obligations and in which a person is appointed as trustee for the holders of the debt obligations issued or guaranteed thereunder;

(c) "trustee" means any person appointed as trustee under the terms of a trust indenture to which a body corporate is a party and includes any successor trustee, whether or not the person is a trust company authorized to carry on business in Ontario. R.S.O. 1980, c. 54, s. 55 (1), *amended*.

Application of
this Part

(2) This Part applies to a trust indenture, whether entered into before or after the day on which this Act comes into force, if, in respect of any debt obligations outstanding or guaranteed thereunder or to be issued or guaranteed thereunder, a prospectus or securities exchange issuer or take-over bid circular has been filed under the *Securities Act* or any predecessor thereof or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. R.S.O. 1980, c. 54, s. 55 (2), *amended*.

R.S.O. 1980,
c. 466

Resident
trustee

(3) The person appointed as trustee under a trust indenture, or at least one of such persons if more than one is so appointed, shall be resident or authorized to do business in Ontario. R.S.O. 1980, c. 54, s. 55 (3).

Exemption by
Commission

(4) Where, upon the application of a body corporate incorporated otherwise than under the laws of Canada, a province or a territory, the Commission is satisfied that to do so would not be prejudicial to the public interest, the Commission may exempt, subject to such terms and conditions as the Commission may impose, a trust indenture from this Part. *New*.

Duty of trustee

47.—(1) A trustee in exercising his powers and discharging his duties shall,

- (a) act honestly and in good faith with a view to the best interests of the holders of the debt obligations issued under the trust indenture; and
- (b) exercise the care, diligence and skill of a reasonably prudent trustee.

(2) No term of a trust indenture or of any agreement between a trustee and the holders of debt obligations issued thereunder or between the trustee and the issuer or guarantor shall operate so as to relieve a trustee from the duties imposed upon him in subsection (1). R.S.O. 1980, c. 54, s. 56, *amended*. Exculpatory clauses

48.—(1) No person shall be appointed as trustee if there is a material conflict of interest between his role as trustee and his role in any other capacity. Conflict of interest

(2) A trustee shall, within ninety days after he becomes aware that a material conflict of interest exists, Idem

- (a) eliminate such conflict of interest; or
- (b) resign from office.

(3) If, notwithstanding the provisions of this section, a trustee has a material conflict of interest, the validity and enforceability of the trust indenture under which the trustee has been appointed, of the security interest constituted by or under such trust indenture and of the securities issued under such trust indenture are not affected in any manner whatsoever by reason only of the existence of such material conflict of interest. Validity not affected

(4) If a trustee contravenes subsection (1) or (2), any interested person may apply to the court for an order that the trustee be replaced, and the court may make an order on such terms as it thinks fit. R.S.O. 1980, c. 54, s. 57, *amended*. Replacing trustee

49.—(1) An issuer or a guarantor of debt obligations issued or to be issued under a trust indenture, before doing any act referred to in clause (a), (b), (c) or (d), shall furnish the trustee with evidence of compliance with the conditions in the trust indenture relating to, Evidence of compliance

- (a) the issue, certification and delivery of debt obligations under the trust indenture;
- (b) the release or release and substitution of property subject to a security interest constituted by the trust indenture;
- (c) the satisfaction and discharge of the trust indenture; or

- (d) the taking of any other action to be taken by the trustee at the request of or on the application of the issuer or guarantor.

Idem

(2) Evidence of compliance as required by subsection (1) shall consist in each case of,

- (a) a statutory declaration or certificate made by a director or an officer of the issuer or guarantor stating that the conditions referred to in that section have been complied with in accordance with the terms of the trust indenture; and
- (b) where the trust indenture requires compliance with conditions that are subject to review,
 - (i) by legal counsel, an opinion, and
 - (ii) by an auditor or accountant, an opinion or report of the auditor of the issuer or guarantor, or any accountant licensed under the *Public Accountancy Act* or comparable legislation of the jurisdiction in which the accountant practises, based on the examinations or enquiries required to be made under the trust indenture,

R.S.O. 1980,
c. 405

in each case approved by the trustee, that the conditions have been complied with in accordance with the terms of the trust indenture.

Idem

(3) The evidence of compliance referred to in subsection (2) shall include a statement by the person giving the evidence,

- (a) declaring that he has read and understands the conditions of the trust indenture described in subsection (1);
- (b) describing the nature and scope of the examination or investigation upon which he based the statutory declaration, certificate, opinion or report; and
- (c) declaring that he has made such examination or investigation as he believes necessary to enable him to make the statements or give the opinions contained or expressed therein.

Certificate of
issuer or
guarantor

(4) At least once in each twelve-month period beginning on the date debt obligations are first issued under the trust indenture and at any other reasonable time upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with a certificate that the issuer or guarantor has complied with all requirements contained in the

trust indenture that, if not complied with, would, with the giving of notice, lapse of time or otherwise, constitute an event of default, or, if there has been failure to so comply, giving particulars thereof.

(5) Upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with evidence in such form as the trustee may require as to compliance with any condition therein relating to any action required or permitted to be taken by the issuer or guarantor under the trust indenture or as a result of any obligation imposed by the trust indenture. Evidence of compliance

(6) A trustee is not in contravention of subsection 47 (1) if he relies in good faith upon statements contained in a statutory declaration, certificate, opinion or report that complies with this Act or the trust indenture. R.S.O. 1980, c. 54, s. 58. Reliance on opinions

50. A trustee under a trust indenture and any related person to the trustee shall not be appointed a receiver or receiver and manager or liquidator of the assets or undertaking of the issuer or guarantor of the debt obligations under the trust indenture. R.S.O. 1980, c. 54, s. 59. Trustee not to be receiver

51.—(1) The trustee shall be required to give to the holders of debt obligations issued under the trust indenture, within a reasonable time but not exceeding thirty days after the trustee becomes aware of the occurrence thereof, notice of every event of default arising under the trust indenture unless the trustee in good faith determines that the withholding of the notice is in the best interests of the holders of the debt obligations and so advises the issuer or guarantor in writing. R.S.O. 1980, c. 54, s. 60. Notice of events of default

(2) Where notice of the occurrence of an event of default under a trust indenture is given under subsection (1) and the default is thereafter cured, notice that the default is no longer continuing shall be given by the trustee to the holders of the debt obligations within a reasonable time, but not exceeding thirty days, after the trustee becomes aware that the default has been cured. *New.* Idem

52.—(1) Any person, upon payment to a trustee of a reasonable fee therefor, may require the trustee to furnish, within ten days after delivering to the trustee the statutory declaration referred to in subsection (3), a list setting out, Where list of debt obligation holders to be furnished

- (a) the names and addresses of the registered holders of the outstanding debt obligations;
- (b) the principal amount of outstanding debt obligations owned by each such holder; and

- (c) the aggregate principal amount of debt obligations outstanding,

as shown on the records maintained by the trustee on the day that the statutory declaration is delivered to the trustee.

Information
to be
furnished
to trustee

- (2) Upon the demand of a trustee, the issuer of debt obligations shall furnish the trustee with the information required to enable the trustee to comply with subsection (1).

Statutory
declaration

- (3) The statutory declaration required under subsection (1) shall state,

- (a) the name and address of the person requiring the trustee to furnish the list and, if the person is a body corporate, the address for service thereof; and

- (b) that the list will not be used except as permitted under subsection (5).

Idem

- (4) If the person requiring the trustee to furnish a list under subsection (1) is a body corporate, the statutory declaration required under that subsection shall be made by a director or officer of the body corporate.

Use of list

- (5) No person shall use a list obtained under this section except in connection with,

- (a) an effort to influence the voting of the holders of debt obligations;

- (b) an offer to acquire debt obligations; or

- (c) any other matter relating to the debt obligations or the affairs of the issuer or guarantor thereof. *New.*

PART VI

INVESTMENT SECURITIES

Interpretation

53.—(1) In this Part,

- (a) “adverse claim” includes a claim that a transfer is or would be unauthorized or wrongful or that a particular adverse person is the owner of or has an interest in the security;

- (b) “appropriate person”, when used to refer to a person endorsing a security, means,

- (i) the person specified by the security or by special endorsement to be entitled to the security,
 - (ii) where the person so specified is described as a trustee or other fiduciary but is no longer serving in that capacity and notwithstanding that a successor has been appointed or qualified,
 - (A) where only one person is so described, that person or his successor, or
 - (B) where more than one person is so described, the remaining persons,
 - (iii) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise, his executor, administrator, committee, guardian or like fiduciary,
 - (iv) where the security or endorsement specified more than one person as joint tenants or with right of survivorship and by reason of death all cannot sign, the survivor or survivors,
 - (v) a person having the power to sign under the applicable law or controlling instrument, or
 - (vi) to the extent any of the foregoing persons may act through an agent, his authorized agent;
- (c) “bearer form” when applied to a security means a security that is payable to bearer according to its terms and not by reason of any endorsement;
- (d) “*bona fide* purchaser” means a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or order form or of a security in registered form issued to him or endorsed to him or endorsed in blank;
- (e) “broker” means a person engaged for all or part of his time in the business of buying and selling securities and who, in the transaction concerned, acts for or buys a security from or sells a security to a customer;
- (f) “clearing corporation” means a body corporate recognized as a clearing corporation by the Commission;

1980-81,
c. 40 (Can.)

R.S.O. 1980,
c. 249

- (g) "custodian" means a bank to which the *Bank Act* (Canada) applies, a trust company registered under the *Loan and Trust Corporations Act* or such other body corporate as may be recognized by the Commission as a custodian and that is acting as custodian for a clearing corporation;
- (h) "delivery" means voluntary transfer of possession;
- (i) "fiduciary" means a trustee, guardian, committee, curator, tutor, executor, administrator or representative of a deceased person, or any other person acting in a fiduciary capacity;
- (j) "fungible" in relation to securities means securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit;
- (k) "genuine" means free of forgery or counterfeiting;
- (l) "good faith" means honesty in fact in the conduct of the transaction concerned;
- (m) "holder" means a person in possession of a security issued or endorsed to him or to bearer or in blank;
- (n) "issuer" means a body corporate,
 - (i) that is required by this Act to maintain a securities register,
 - (ii) that directly or indirectly creates fractional interests in its rights or property and that issues securities as evidence of such fractional interests,
 - (iii) that places or authorizes the placing of its name on a security, otherwise than as an authenticating trustee, registrar or transfer agent, to evidence that it represents a share, participation or other interest in its property or in an enterprise or to evidence its duty to perform an obligation evidenced by the security, or
 - (iv) that becomes responsible for or in place of any other person described as an issuer in this Part;
- (o) "noted conspicuously" and "appearing conspicuously" mean written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them;

- (p) “order form” when applied to a security means a security that is payable to the order or assigns of any person therein specified with reasonable certainty or to such person or such person’s order;
- (q) “overissue” means the issue of securities in excess of any maximum number of securities that the issuer is authorized by its articles or a trust indenture to issue;
- (r) “proper form” means regular on its face with regard to all formal matters;
- (s) “purchaser” means a person who takes by sale, mortgage, hypothec, pledge, issue, reissue, gift or any other voluntary transaction creating an interest in a security;
- (t) “registered form” when applied to a security means a security that,
 - (i) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or
 - (ii) bears a statement that it is in registered form;
- (u) “security” or “security certificate” means an instrument issued by a body corporate that is,
 - (i) in bearer, order or registered form,
 - (ii) of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment,
 - (iii) one of a class or series or by its terms divisible into a class or series of instruments, and
 - (iv) evidence of a share, participation or other interest in or obligation of the body corporate;
- (v) “transfer” includes transmission by operation of law;
- (w) “trust indenture” means a trust indenture as defined in Part V;
- (x) “unauthorized” when used with reference to a signature or an endorsement means one made without authority,

actual, apparent or of any other type and includes a forgery;

- (y) "valid" means issued in accordance with the applicable law and the articles of the issuer or validated under section 58. R.S.O. 1980, c. 54, s. 61 (1), *amended*.

Application of
this Part
R.S.C. 1970,
c. B-5

(2) This Part does not apply to a promissory note or bill of exchange to which the *Bills of Exchange Act* (Canada) applies. R.S.O. 1980, c. 54, s. 61 (2).

Security as
negotiable
instrument

(3) Except where its transfer is restricted and noted on a security in accordance with subsection 56 (3), a security is a negotiable instrument. *New*.

Share
certificates

54.—(1) Every security holder is entitled at his option to a security certificate in respect of the securities held by him that complies with this Act or to a non-transferable written acknowledgement of his right to obtain a security certificate from a corporation in respect of the securities of the corporation held by him, but the corporation is not bound to issue more than one security certificate in respect of a security or securities held jointly by several persons, and delivery of a security certificate to one of several joint security holders is sufficient delivery to all.

Fee

(2) A corporation may charge a fee of not more than \$3 for a security certificate issued in respect of a transfer. R.S.O. 1980, c. 54, s. 47, *amended*.

Signing of
share
certificates

55.—(1) A security certificate shall be signed manually by at least one director or officer of the corporation or by or on behalf of a registrar, transfer agent, branch transfer agent or issuing or other authenticating agent of the corporation, or by a trustee who certifies it in accordance with a trust indenture, and any additional signatures required on a security certificate may be printed or otherwise mechanically reproduced thereon.

Idem

(2) If a security certificate contains a printed or mechanically reproduced signature of a person, the corporation may issue the security certificate notwithstanding that the person has ceased to be a director or an officer of the corporation, and the security certificate is as valid as if he were a director or an officer at the date of its issue.

Where manual
signature not
required

(3) Notwithstanding subsection (1), a manual signature is not required on,

- (a) a promissory note that is not issued under a trust indenture;

- (b) a scrip certificate;
- (c) a security certificate representing a fractional share; or
- (d) a warrant. R.S.O. 1980, c. 54, s. 48, *amended*.

56.—(1) A corporation shall state upon the face of each share certificate issued by it, Contents of
share
certificate

- (a) the name of the corporation and the words “Incorporated under the law of the Province of Ontario” or words of like effect;
- (b) the name of the person to whom it was issued; and
- (c) the number and class of shares and the designation of any series that the certificate represents.

(2) Where a corporation is authorized to issue shares of more than one class or series, the corporation shall legibly state on each share certificate issued by it, Idem

- (a) the rights, privileges, restrictions and conditions attached to the shares of each class and series that exists when the share certificate is issued; or
- (b) that the class or series of shares that it represents has rights, privileges, restrictions or conditions attached thereto and that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of,
 - (i) the rights, privileges, restrictions and conditions attached to that share and to each class authorized to be issued and to each series in so far as the same have been fixed by the directors, and
 - (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1980, c. 54, s. 49 (1, 2), *amended*.

(3) Where a share certificate issued by a corporation or by a body corporate before the body corporate was continued under section 179 is, or becomes, subject to, Where
restriction,
lien, etc.,
ineffective

- (a) a restriction on its transfer other than a restriction referred to in subsection (8);

- (b) a lien in favour of the corporation;
- (c) a unanimous shareholder agreement; or
- (d) an endorsement under subsection 184 (11),

the restriction, lien, agreement or endorsement is ineffective against a transferee of the share who has no actual knowledge of it, unless it or a reference to it is noted conspicuously on the share certificate.

Notice of
restriction

(4) If a body corporate continued under section 179 has outstanding a share certificate issued prior to the date of the certificate of continuance and if the words "private company" appear on the certificate, those words are deemed to be a notice of a restriction, lien, agreement or endorsement for the purpose of subsection (3).

Idem
R.S.O. 1970,
c. 89

(5) Where a corporation was incorporated as a private company under *The Corporations Act*, or any predecessor thereof, before the 1st day of January, 1971, the words "private company" appearing conspicuously on the face of a share certificate issued before the 1st day of January, 1971 shall be deemed to be notice of a restriction on the transfer of the share for the purpose of subsection (3). R.S.O. 1980, c. 54, s. 70, *amended*.

Par value
share
certificate

- (6) A share certificate issued,
 - (a) prior to the day this Act comes into force by a corporation; or
 - (b) prior to the date of the certificate of continuance by a body corporate continued under section 179,

does not contravene this Act merely because the certificate refers to the share or shares represented thereby as having a nominal or par value.

Information to
be furnished
by corporation

(7) Where a share certificate issued by a corporation contains the statement mentioned in clause (2) (b), the corporation shall furnish to a shareholder on demand and without charge a full copy of the text of,

- (a) the rights, privileges, restrictions and conditions attached to that class authorized to be issued and to that series in so far as the same have been fixed by the directors; and
- (b) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1980, c. 54, s. 49 (5, 6), *amended*.

(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for the purpose of assisting the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control, the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction where the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction. Notice of restrictions

(9) Where a share certificate of a corporation contains a reference to a restriction under subsection (8), the corporation shall furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction. Furnishing text of restrictions

(10) The omission to note a restriction or a reference to it under subsection (8) shall not invalidate any share or share certificate and shall not render the restriction ineffective against an owner, holder or transferee of the share or share certificate. *New.* Omission to note restrictions

57.—(1) A corporation may issue a certificate for a fractional share or may issue in place thereof scrip certificates in bearer form that entitle the holder to receive a certificate for a full share by exchanging scrip certificates aggregating a full share. Certificate for fractional share or scrip certificates

(2) The directors may attach conditions to any scrip certificates issued by a corporation, including conditions that, Scrip certificates

- (a) the scrip certificates become void if not exchanged for a certificate representing a full share before a specified date; and
- (b) any shares for which such scrip certificates are exchangeable may, notwithstanding any pre-emptive right, be issued by the corporation to any person and the proceeds thereof distributed rateably to the holders of the scrip certificates.

(3) A holder of a fractional share issued by a corporation is not entitled to exercise voting rights or to receive a dividend in respect of the fractional share unless, Rights of holder of fractional share

- (a) the fractional share results from a consolidation of shares; or
- (b) the articles of the corporation otherwise provide.

Rights of
holder of
scrip certificate

(4) A holder of a scrip certificate is not entitled to exercise voting rights or to receive a dividend in respect of the scrip certificate. R.S.O. 1980, c. 54, s. 50, *amended*.

Overissue

58.—(1) The provisions of this Act that validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue, but,

- (a) if an identical security that does not constitute an over-issue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, that he holds; or
- (b) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand. R.S.O. 1980, c. 54, s. 63 (2).

Validation of
overissue

(2) When an issuer subsequently amends its articles or a trust indenture to which it is a party to increase any maximum number of securities to a number equal to or in excess of the maximum number of securities previously authorized plus the amount of the securities overissued, the securities so overissued, and any act taken by any person in reliance upon the validity of such over-issued securities, are valid from the date of their issue.

Non-application
of ss. 30, 31,
32, 35

(3) A purchase or payment by an issuer under subsection (1) is not a purchase or payment to which section 30, 31, 32 or 35 applies. *New*.

Evidence

59. In an action on a security,

- (a) unless specifically denied in the pleadings, each signature on the security or in a necessary endorsement is admitted;
- (b) a signature on the security is presumed to be genuine and authorized but, if the effectiveness of the signature is put in issue, the burden of establishing that it is genuine and authorized is on the party claiming under the signature;
- (c) if a signature is admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defence or a defect going to the validity of the security; and
- (d) if the defendant establishes that a defence or defect exists, the plaintiff has the burden of establishing that

the defence or defect is ineffective against him or some person under whom he claims. R.S.O. 1980, c. 54, s. 64, *amended*.

60.—(1) The validity of a security and the rights and duties with respect to the registration of a transfer of a security of an issuer that is a corporation or a body corporate incorporated under the laws of Ontario are governed by this Act and the laws of Ontario. Selection of laws

(2) The validity of a security and the rights and duties with respect to the registration of a transfer of a security of an issuer that is a body corporate other than a corporation or a body corporate incorporated under the laws of Ontario are governed by the law, including the conflict of law rules, of the jurisdiction in which the body corporate was incorporated. R.S.O. 1980, c. 54, s. 65, *amended*. Idem

61.—(1) Unless otherwise agreed and subject to any applicable law, regulation or stock exchange rule, a person required to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or endorsed to him or in blank. Form of transfer

(2) Where the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price, Default in payment

(a) of any security accepted by the buyer; and

(b) of any security not accepted by the buyer if its resale would be unduly burdensome or there is no readily available market,

but resort to the remedy herein provided for shall not be construed so as to affect or limit any rights or remedies under applicable law. R.S.O. 1980, c. 54, s. 66, *amended*.

62.—(1) The obligations and defences of an issuer apply to a guarantor of a security to the extent of his guarantee whether or not his obligation is noted on the security. Position of issuer re guarantor

(2) The person on whose behalf a register of transfers is maintained is an issuer for the purposes of the registration of a transfer under sections 86 to 89. *New*. Issuer

63.—(1) Even against a purchaser for value and without notice of a defect going to the validity of a security, the terms of a security include those stated on the security and those incorporated therein by reference to another instrument, statute, rule, regulation or order to the extent that the terms so referred to do not conflict with the stated terms, but such a reference is not of itself notice to a purchaser for value of a defect going to the validity of Notice of terms of security

the security, notwithstanding that the security expressly states that a person accepting it admits such notice.

Validity of
security

(2) A security is valid in the hands of a purchaser for value without notice of any defect going to its validity.

Defence of
issuer

(3) Except as provided in section 65, the fact that a security is not genuine is a complete defence even against a *bona fide* purchaser.

Idem

(4) All other defences of the issuer including non-delivery and conditional delivery of the security are ineffective against a *bona fide* purchaser. R.S.O. 1980, c. 54, s. 68 (1-3), *amended*.

Idem

(5) Nothing in this section shall be construed to affect the right of a party to a "when, as and if issued" or a "when distributed" contract to cancel the contract in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement under which such security is to be issued or distributed. R.S.O. 1980, c. 54, s. 68 (4).

Notice of
defect

64.—(1) After an act or event that creates a right to immediate performance of the principal obligation evidenced by the security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is deemed to have notice of any defect in its issue or any defence of the issuer,

(a) if the act or event requires the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and

(b) if the act or event is not one to which clause (a) applies and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

Revoked call
for redemption
excepted

(2) Subsection (1) does not apply to a call for redemption that has been revoked. R.S.O. 1980, c. 54, s. 69, *amended*.

Unauthorized
signatures on
issue

65. An unauthorized signature placed on a security before or in the course of issue is ineffective, except that the signature is effective in favour of a *bona fide* purchaser if the signing has been done by,

(a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities, or their immediate preparation for signing; or

- (b) an employee of the issuer or of a person referred to in clause (a) who in the ordinary course of his duties handles the security. R.S.O. 1980, c. 54, s. 71.

66.—(1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect,

Completion of blanks

- (a) any person may complete it by filling in the blanks in accordance with his authority; and
- (b) notwithstanding that the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness. R.S.O. 1980, c. 54, s. 72 (1), *amended*.

(2) A completed security that has been improperly altered, even if fraudulently altered, remains enforceable but only according to its original terms. R.S.O. 1980, c. 54, s. 72 (2).

Improper alteration

67.—(1) An issuer or a trustee defined in subsection 46 (1) may, subject to sections 95, 96 and 100, treat the registered holder of a security as the person exclusively entitled to vote, to receive notices, to receive any interest, dividend or other payments in respect of the security, and otherwise to exercise all the rights and powers of a holder of the security. R.S.O. 1980, c. 54, s. 73 (1), *amended*.

Effect of registration

(2) Notwithstanding subsection (1), an issuer whose articles restrict the right to transfer its securities shall, and any other issuer may, treat a person referred to in clause (a), (b) or (c) as a registered security holder entitled to exercise all the rights of the security holder he represents, if that person furnishes evidence as described in subsection 87 (3) to the issuer that he is,

Representatives, etc., may exercise rights of security holder

- (a) the executor, administrator, heir or legal representative of the heirs, of the estate of a deceased security holder;
- (b) a guardian, committee, trustee, curator or tutor representing a registered security holder who is an infant, an incompetent person or a missing person; or
- (c) a liquidator of, or a trustee in bankruptcy for, a registered security holder.

(3) If a person upon whom the ownership of a security devolves by operation of law, other than a person referred to in subsection (2), furnishes proof of his authority to exercise rights or privileges in respect of a security of the issuer that is not registered in his name, the issuer shall treat the person as entitled to exercise those rights or privileges.

Rights where ownership devolves by operation of law

Corporation
has no duty to
enforce
performance

(4) An issuer is not required to inquire into the existence of, or see to the performance or observance of, any duty owed to a third person by a registered holder of any of its securities or by anyone whom it treats, as permitted or required by this section, as the owner or registered holder thereof.

Repudiation by
infant

(5) If an infant exercises any rights of ownership in the securities of an issuer, no subsequent repudiation or avoidance is effective against the issuer.

Joint
holders

(6) Where a security is issued to several persons as joint holders, upon satisfactory proof of the death of one joint holder, the issuer may treat the surviving joint holders as owner of the security.

Registration of
executor, etc.

(7) Subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, a person referred to in clause (2) (a) is entitled to become a registered holder or to designate a registered holder, if he deposits with the issuer or its transfer agent,

(a) the original grant of probate or of letters of administration, or a copy thereof certified to be a true copy by,

(i) the court that granted the probate or letters of administration,

(ii) a trust company incorporated under the laws of Canada or a province, or

(iii) a lawyer or notary acting on behalf of the person;
or

(b) in the case of transmission by notarial will in the Province of Quebec, a copy thereof authenticated under the laws of that Province,

together with,

(c) an affidavit or declaration of transmission made by the person stating the particulars of the transmission;

(d) the security certificate that was owned by the deceased holder,

(i) in case of a transfer to the person, with or without the endorsement of that person, and

(ii) in case of a transfer to any other person, endorsed in accordance with section 73; and

(e) any assurance the issuer may require under section 87.

(8) Notwithstanding subsection (7), if the laws of the jurisdiction governing the transmission of a security of a deceased holder do not require a grant of probate or of letters of administration in respect of the transmission, a legal representative of the deceased holder is entitled, subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, to become a registered holder or to designate a registered holder, if he deposits with the issuer or its transfer agent, Idem

- (a) the security certificate that was owned by the deceased holder; and
- (b) reasonable proof of the governing laws, the deceased holder's interest in the security and the right of the legal representative or the person he designates to become the registered holder.

(9) Deposit of the documents required by subsection (7) or (8) empowers an issuer or its transfer agent to record in a securities register the transmission of a security from the deceased holder to a person referred to in clause (2) (a) or to such person as that person may designate and, thereafter, to treat the person who thus becomes a registered holder as the owner of those securities. *New.* Recording in
security
register

68.—(1) A person placing his signature upon a security as authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that, Warranties
in issue

- (a) the security is genuine and in proper form;
- (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
- (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person referred to in subsection (1) does not assume any further liability for the validity of a security. R.S.O. 1980, c. 54, s. 74. Idem

69.—(1) Upon delivery of a security, the purchaser acquires the rights in the security that his transferor had or had actual authority to convey except that a purchaser who has himself been Rights
acquired by
purchasers

a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later *bona fide* purchaser.

Bona fide
purchaser

(2) A *bona fide* purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

Limited
interest

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased. R.S.O. 1980, c. 54, s. 75.

Notice of
adverse claim

70.—(1) A purchaser, including a broker for a seller or purchaser, of a security is deemed to have notice of an adverse claim if,

- (a) the security has been endorsed “for collection” or “for surrender” or for some other purpose not involving transfer; or
- (b) the security has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on a security is not such a statement. R.S.O. 1980, c. 54, s. 76 (1), *amended*.

Idem

(2) Notwithstanding that a purchaser, including a broker for a seller or purchaser, has notice that a security is held for a third person or is registered in the name of or endorsed by a fiduciary, he has no duty to inquire into the rightfulness of the transfer and has no notice of an adverse claim, except that where a purchaser knows that the consideration is to be used for, or that the transaction is for, the personal benefit of the fiduciary or is otherwise in breach of the fiduciary’s duty, the purchaser is deemed to have notice of an adverse claim. R.S.O. 1980, c. 54, s. 76 (2), *amended*.

Idem

(3) An event that creates a right to immediate performance of the principal obligation evidenced by a security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange is not of itself notice of an adverse claim, except in the case of a purchase,

- (a) after one year from any date set for such presentation or surrender for redemption or exchange; or
- (b) after six months from any date for payment of money against presentation or surrender of the security if funds are available for payment on that date. R.S.O. 1980, c. 54, s. 76 (3).

Warranties on
presentment

71.—(1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he

is entitled to the registration, payment or exchange, except that a *bona fide* purchaser who receives a new, reissued or reregistered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature in a necessary endorsement.

(2) A person by transferring a security to a purchaser for value warrants only that, Warranties on transfer

- (a) the transfer is effective and rightful;
- (b) the security is genuine and has not been materially altered; and
- (c) he knows of nothing that might impair the validity of the security.

(3) Where a security is delivered by an intermediary known by the purchaser to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim to be collected against such delivery, the intermediary by such delivery warrants only his own good faith and authority even if he has purchased or made advances against the draft or other claim to be collected against the delivery. Warranties by intermediary

(4) A pledgee or other holder for purposes of security who redelivers a security received, or after payment and on order of the debtor delivers that security to a third person, gives only the warranties of an intermediary under subsection (3). Warranties of pledgee

(5) A broker gives to his customer, to the issuer or to a purchaser, as the case may be, the warranties provided in this section and has the rights and privileges of a purchaser under this section, and those warranties of and in favour of the broker acting as an agent are in addition to warranties given by his customer and warranties given in favour of his customer. R.S.O. 1980, c. 54, s. 77, *amended*. Warranties of broker

72. Where a security in registered form has been delivered to a purchaser without a necessary endorsement, he may become a *bona fide* purchaser only as of the time the endorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied. R.S.O. 1980, c. 54, s. 78. Absence of endorsement

73.—(1) An endorsement of a security in registered form is made when an appropriate person signs on the security or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of the person is written without more upon the back of the security. Endorsement

Idem	(2) An endorsement of a security may be, (a) in blank, including to bearer; or (b) a special endorsement, specifying the person to whom the security is to be transferred or who has the power to transfer it, and a holder may convert an endorsement in blank into a special endorsement.
Obligation of endorser	(3) Unless otherwise agreed, the endorser by his endorsement assumes no obligation that the security will be honoured by the issuer.
Partial endorsement	(4) An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.
Appropriate person	(5) Whether the person who has made an endorsement is appropriate shall be determined as of the date the endorsement was made and an endorsement by such person does not become unauthorized for the purposes of this Act by virtue of any subsequent change of circumstances.
Improper endorsement by fiduciary	(6) Failure of a fiduciary to comply with a controlling instrument or with the law applicable to the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his endorsement unauthorized for the purposes of this Act. R.S.O. 1980, c. 54, s. 79.
Delivery necessary	74. An endorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears, or if the endorsement is on a separate document until the delivery of both the document and the security. R.S.O. 1980, c. 54, s. 80.
Endorsement of security in bearer form	75. An endorsement of a security in bearer form may give notice of an adverse claim under section 70 but does not otherwise affect any right to registration that the holder has. <i>New.</i>
Effect of unauthorized endorsement	76. —(1) The owner of a security may assert the ineffectiveness of an endorsement against the issuer or any purchaser, other than a <i>bona fide</i> purchaser who received a new, reissued or reregistered security on registration of transfer, unless the owner, (a) has ratified an unauthorized endorsement of the security; or (b) is otherwise precluded from impugning the effectiveness of an unauthorized endorsement.

(2) An issuer who registers the transfer of a security upon an unauthorized endorsement is liable for improper registration. R.S.O. 1980, c. 54, s. 81, *amended*. ^{Idem}

77.—(1) Every person who guarantees a signature of an endorser of a security warrants that at the time of signing, ^{Guarantee of signature}

- (a) the signature was genuine;
- (b) the signer was an appropriate person to endorse; and
- (c) the signer had legal capacity to sign,

but the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(2) Any person may guarantee an endorsement of a security and by so doing warrants not only the signature but also the rightfulness of the particular transfer in all respects. ^{Guarantee of endorsement}

(3) No issuer may require a guarantee of endorsement as a condition to registration of transfer. ^{Idem}

(4) The warranties referred to in this section are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of warranty. R.S.O. 1980, c. 54, s. 82, *amended*. ^{Liability of guarantor}

78.—(1) Delivery to a purchaser occurs when, ^{What constitutes delivery}

- (a) he or a person designated by him acquires possession of a security;
- (b) his broker acquires possession of a security specially endorsed or issued in the name of the purchaser;
- (c) his broker sends him confirmation of the purchase and the broker in his records identifies a specific security in the broker's possession as belonging to the purchaser;
- (d) with respect to an identified security to be delivered while still in the possession of a third person, that person acknowledges that he holds it for the purchaser; or
- (e) appropriate entries in the records of a clearing corporation are made under section 85.

(2) A purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in clauses (1) (b), (c) and (e). ^{What constitutes ownership}

Idem (3) If a security is part of a fungible bulk, the purchaser is the owner of a proportionate property interest in the fungible bulk.

Notice of adverse claim after delivery (4) Notice of an adverse claim received by a broker or by a purchaser after the broker takes delivery as a holder for value is not effective against the broker or the purchaser except that as between the broker and the purchaser, the purchaser may demand delivery of an equivalent security as to which no notice of an adverse claim has been received. R.S.O. 1980, c. 54, s. 83, *amended*.

Duty of seller to deliver **79.**—(1) Unless otherwise agreed where a sale of a security is made on a stock exchange recognized for the purposes of this Part by the Commission or otherwise through brokers,

(a) the selling customer fulfils his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or, if requested, causes an acknowledgement to be made to the selling broker that it is held for him; and

(b) the selling broker including a correspondent broker acting for a selling customer fulfils his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the recognized stock exchange on which the transaction took place.

Idem (2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgement to be made to the purchaser that it is held for him.

Idem (3) A sale to a broker purchasing for his own account is subject to subsection (2) and not subsection (1), unless the sale is made on a recognized stock exchange. R.S.O. 1980, c. 54, s. 84, *amended*.

Action for wrongful transfer **80.**—(1) A person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone except a *bona fide* purchaser reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or claim damages.

Idem (2) If the transfer of a security is wrongful by reason of an unauthorized endorsement, the owner may reclaim possession of the security or a replacing security even from a *bona fide*

purchaser if the ineffectiveness of the purported endorsement may be asserted against such purchaser under section 76.

(3) The right to reclaim possession of a security may be specifically enforced, its transfer may be restrained and the security may be impounded pending litigation. R.S.O. 1980, c. 54, s. 85, *amended*. Specific performance and injunction

81.—(1) Unless otherwise agreed, a transferor shall on demand supply his purchaser with proof of his authority to transfer or with any other requisite that is necessary to obtain registration of the transfer of a security, but if the transfer is not for value a transferor need not do so unless the purchaser pays the reasonable and necessary costs of the proof and transfer. Transferor's duty to provide requisites for registration of transfer

(2) If the transferor fails to comply with a demand under subsection (1) within a reasonable time, the purchaser may reject or rescind the transfer. R.S.O. 1980, c. 54, s. 86, *amended*. Effect of failure

82. No seizure of a security or other interest evidenced thereby is effective until the person making the seizure obtains possession of the security. *New*. When seizure effective

83. An agent or bailee who in good faith, including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities, has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal has no right to dispose of them. R.S.O. 1980, c. 54, s. 87. Transfer by agent in good faith not conversion

84. A contract for the sale of securities is not enforceable by way of action or defence unless, Contract for sale

- (a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price;
- (b) delivery of the security has been accepted or payment has been made, but the contract is enforceable under this provision only to the extent of such delivery or payment;
- (c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under clause (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within a reasonable time after its receipt; or

- (d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price.
R.S.O. 1980, c. 54, s. 88.

Transfer
through
clearing house

85.—(1) If a security,

- (a) is in the custody of a clearing corporation or of a custodian or nominee of either, subject to the instructions of the clearing corporation;
- (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian or a nominee of either; and
- (c) is shown on the account of a transferor or pledgor in the records of the clearing corporation,

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries in the records of the clearing corporation, reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

Interest in
fungible bulk

(2) Under this section, entries may be in respect of like securities or interests therein as part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

Constructive
endorsement
and delivery

(3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank representing the amount of the obligation or the number of shares or rights transferred or pledged.

Idem

(4) If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party and the pledgee or secured party shall be deemed to have taken possession for all purposes including the purposes of the *Personal Property Security Act*.

R.S.O. 1980,
c. 375

Holder

(5) A transferee or pledgee under this section is a holder.

Not
registration

(6) A transfer or pledge under this section does not constitute a registration of transfer under sections 86 to 90.

Error in
records

(7) That entries made in the records of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations

of the clearing corporation to any person adversely affected thereby.

(8) For the purposes of this section, if a clearing corporation or its nominee is registered in the securities register of a body corporate as the owner of a share, participation or other interest in or obligation of the body corporate, but such body corporate has not issued a security certificate in respect thereof, Where security certificate not issued

- (a) the clearing corporation or its nominee shall be deemed to have custody of a security certificate in respect of such share, participation or other interest in or obligation of the body corporate; and
- (b) such security certificate shall be deemed to be registered in the name of the clearing corporation or its nominee, as the case may be. R.S.O. 1980, c. 54, s. 89, *amended*.

86.—(1) Where a security in registered form is presented for transfer, the issuer shall register the transfer if, Duty of issuer to register transfer

- (a) the security is endorsed by the appropriate person;
- (b) reasonable assurance is given that that endorsement is genuine and effective;
- (c) the issuer has no duty to inquire into adverse claims or has discharged any such duty;
- (d) any applicable law of Canada or a province of Canada relating to the collection of taxes has been complied with;
- (e) the transfer is rightful or is to a *bona fide* purchaser; and
- (f) any fee referred to in subsection 54 (2) has been paid.

(2) Where an issuer has a duty to register a transfer of a security, the issuer is liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer. Liability for undue delay R.S.O. 1980, c. 54, s. 90, *amended*.

87.—(1) For the purpose of obtaining reasonable assurance that each necessary endorsement required by section 73 is genuine and effective, the issuer may require a guarantee of the signature of the person endorsing or, where such guarantee is lacking, Assurances required by issuer

- (a) if the endorsement is by an agent, reasonable assurance of authority to sign;
- (b) if the endorsement is by a fiduciary or a successor on whom title or control vests on the death of the holder, appropriate evidence of appointment or incumbency;

- (c) if there is more than one fiduciary or successor, reasonable assurance that all who are required to sign have done so; and
- (d) if the endorsement is by a person other than by a person mentioned in this section, assurance appropriate to the case equivalent as nearly as may be to those required by this section.

Sufficiency of
guarantee

(2) A “guarantee of the signature” in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible, and the issuer may adopt reasonable standards with respect to responsibility.

Appropriate
evidence of
appointment or
incumbency

(3) For the purposes of subsection (1), “appropriate evidence of appointment or incumbency” means,

- (a) in the case of a fiduciary appointed by a court, a copy, certified in accordance with subsection 67 (7) not more than sixty days before the date the security is presented for transfer, of the order of the court;
- (b) in the case of an estate of the deceased holder of net value less than \$3,000 or if the market value of the securities is less than \$600, proof thereof to the reasonable satisfaction of the issuer; or
- (c) in any other case, a copy of a document showing the appointment or other evidence believed by the issuer to be appropriate.

Where contents
not notice

(4) An issuer is not deemed to have notice of the contents of any document obtained under subsection (3) except to the extent that the contents relate directly to appointment or incumbency.

Notice of
additional
assurances

(5) If an issuer demands assurance additional to that specified in this section for a purpose other than that specified in subsection (3) and obtains a copy of a will, trust or partnership agreement, by-law or similar document, the issuer shall be deemed to have notice of all matters contained therein affecting the transfer. R.S.O. 1980, c. 54, s. 91, *amended*.

Notice to issuer
of adverse
claim

88.—(1) An issuer to whom a security is presented for registration has a duty to inquire into adverse claims if,

- (a) written notice of an adverse claim is received at a time and in a manner that affords the issuer a reasonable opportunity to act on it before the issue of a new, re-issued or reregistered security and the notice discloses the name and address of the claimant, the registered owner and the issue of which the security is a part;
- (b) the issuer is deemed to have notice of an adverse claim from a document that is obtained under subsection 87 (5); or

- (c) the issuer is given written notice by the registered owner that the security is lost, apparently destroyed or wrongfully taken.

(2) An issuer may discharge a duty of inquiry by any reasonable means, including notifying an adverse claimant by registered mail sent to the address furnished by him or, if no such address has been furnished, to his residence or regular place of business, that a security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notice either,

Discharge of
duty of inquiry

- (a) the issuer is served with a restraining order or other order of a court; or
- (b) the issuer is provided with an indemnity bond sufficient in the issuer's judgment to protect the issuer and any registrar, transfer agent or other agent of the issuer from any loss that may be incurred by any of them as a result of complying with the adverse claim.

(3) Unless an issuer is deemed to have notice of an adverse claim from a document that is obtained under subsection 87 (5) or has received notice of an adverse claim under subsection (1), if a security presented for registration is endorsed by the appropriate person, the issuer has no duty to inquire into adverse claims and in particular,

Where no duty
to inquire

- (a) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;
- (b) an issuer registering transfer on an endorsement by a fiduciary has no duty to inquire whether the transfer is made in compliance with the document or with the law of the jurisdiction governing the fiduciary relationship; and
- (c) an issuer is deemed not to have notice of the contents of any court record or any registered document even if the record or document is in the issuer's possession and even if the transfer is made on the endorsement of a fiduciary to the fiduciary himself or to his nominee.

(4) A written notice of adverse claim received by an issuer is effective for twelve months from the date when it was received unless the notice is renewed in writing. R.S.O. 1980, c. 54, s. 92, *amended*.

Limitation for
notice

Liability of
issuer

89.—(1) Except as otherwise provided in any applicable law of Canada or any province of Canada relating to the collection of taxes, the issuer is not liable to the owner or any other person who incurs a loss as a result of the registration of a transfer of a security if,

- (a) the necessary endorsements were on or with the security; and
- (b) the issuer had no duty to inquire into adverse claims or had discharged any such duty.

Idem

(2) If an issuer has registered a transfer of a security to a person not entitled to it, the issuer shall deliver on demand a like security to the owner unless,

- (a) subsection (1) applies;
- (b) the owner is precluded by subsection 90 (1) from asserting any claim; or
- (c) the delivery would result in overissue, in which case the issuer's liability is governed by section 58. R.S.O. 1980, c. 54, s. 93, *amended*.

Loss, etc.,
of securities

90.—(1) Where a security has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the issuer of that fact by giving the issuer written notice of his adverse claim within a reasonable time after he knows of the loss, destruction or taking and if the issuer has registered a transfer of the security before receiving such notice, the owner is precluded from asserting against the issuer any claim to a new security.

Replacing
loss, etc., of
securities

(2) Where the owner of a security claims that the security has been lost, apparently destroyed or wrongfully taken, the issuer shall issue a new security in place of the original security if the owner,

- (a) so requests before the issuer has notice that the security has been acquired by a *bona fide* purchaser;
- (b) files with the issuer an indemnity bond sufficient in the issuer's opinion to protect the issuer and any transfer agent, registrar or other agent of the issuer from any loss that it or any of them may suffer by complying with the request to issue a new security; and
- (c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of a new security under subsection (2), a *bona fide* purchaser of the original security presents the original security for registration of transfer, the issuer shall register the transfer unless registration would result in overissue, in which case the issuer's liability is governed by section 58. Rights of *bona fide* purchaser

(4) In addition to any rights on an indemnity bond, the issuer may recover a new security issued under subsection (2) from the person to whom it was issued or any person taking under him other than a *bona fide* purchaser. R.S.O. 1980, c. 54, s. 94, *amended*. Rights of issuer

91.—(1) An authenticating trustee, transfer agent, registrar or other agent for an issuer has in respect of the issue, registration of transfer, and cancellation of a security of the issuer, Duty of agents for issuer

- (a) a duty to the issuer and to the holder or owner to exercise good faith and due diligence; and
- (b) the same obligations to the holder or owner of a security and the same rights, privileges and immunities as the issuer.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent. R.S.O. 1980, c. 54, s. 95. Notice to agents for issuer

PART VII

SHAREHOLDERS

92.—(1) The shareholders of a corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation except under subsection 34 (5), subsection 108 (5) and section 242. R.S.O. 1980, c. 54, s. 102, *amended*. Shareholders' liability limited

(2) The provisions of the *Corporations Act* relating to the liability of a holder of shares that are not fully paid and to the enforcement of such liability apply in respect of shares that were not fully paid, Application of R.S.O. 1980, c. 95

- (a) on the 1st day of January, 1971, in the case of shares of a corporation that then became subject to *The Business Corporations Act*; or R.S.O. 1970, c. 53
- (b) on the day upon which any other body corporate was continued under *The Business Corporations Act* or under this Act, in the case of shares of such other body corporate. *New*.

Place of
meetings

93. Subject to the articles and any unanimous shareholder agreement, a meeting of shareholders of a corporation shall be held at such place in or outside Ontario as the directors determine or, in the absence of such a determination, at the place where the registered office of the corporation is located. R.S.O. 1980, c. 54, s. 103, *amended*.

Shareholders'
meetings

94. Subject to subsection 104 (1), the directors of a corporation,

(a) shall call an annual meeting of shareholders not later than eighteen months after the corporation comes into existence and subsequently not later than fifteen months after holding the last preceding annual meeting; and

(b) may at any time call a special meeting of shareholders. R.S.O. 1980, c. 54, s. 105 (2), *amended*.

Date for
determining
shareholders

95.—(1) For the purpose of determining shareholders,

(a) entitled to receive payment of a dividend;

(b) entitled to participate in a liquidation or distribution; or

(c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken.

Idem

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days or by less than twenty-one days the date on which the meeting is to be held.

Idem

(3) Where no record date is fixed,

(a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,

(i) at the close of business on the day immediately preceding the day on which the notice is given, or

(ii) if no notice is given, the day on which the meeting is held; and

- (b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution relating thereto.

(4) If a record date is fixed, unless notice of the record date is ^{Notice of date} waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed,

- (a) by advertisement in a newspaper published or distributed in the place where the corporation has its registered office and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and
- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading. R.S.O. 1980, c. 54, s. 110, *amended*.

96.—(1) Notice of the time and place of a meeting of shareholders shall be sent, in the case of an offering corporation, not less ^{Notice of shareholders' meetings} than twenty-one days and, in the case of any other corporation, not less than ten days, but, in either case, not more than fifty days, before the meeting,

- (a) to each shareholder entitled to vote at the meeting;
- (b) to each director; and
- (c) to the auditor of the corporation.

(2) A notice of a meeting is not required to be sent to shareholders ^{Idem} who were not registered on the records of the corporation or its transfer agent on the record date determined under subsection 95 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

(3) If a meeting of shareholders is adjourned for less than thirty ^{Idem} days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned.

(4) If a meeting of shareholders is adjourned by one or more ^{Idem} adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but,

unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, subsection 111 (1) does not apply.

Special
business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business.

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and
- (b) the text of any special resolution or by-law to be submitted to the meeting. R.S.O. 1980, c. 54, s. 104, *part, amended*.

Shareholders'
meeting

97. Subject to this Act or the articles or by-laws of a corporation or a unanimous shareholder agreement,

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place subject to subsections 96 (3) and (4); and
- (c) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman. R.S.O. 1980, c. 54, s. 104 (1), *part, amended*.

Waiving
notice

98. A shareholder and any other person entitled to attend a meeting of shareholders may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where he attends a meeting for the express pur-

pose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. R.S.O. 1980, c. 54, s. 246 (4), *amended*.

99.—(1) A shareholder entitled to vote at a meeting of shareholders may, Proposal

- (a) submit to the corporation notice of a proposal; and
- (b) discuss at the meeting any matter in respect of which he would have been entitled to submit a proposal.

(2) Where a corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management information circular required by section 112 or attach the proposal thereto. Circulating proposal

(3) If so requested by a shareholder giving notice of a proposal, the corporation shall include in the management information circular or attach thereto a statement by the shareholder of not more than two hundred words in support of the proposal along with the name and address of the shareholder. Statement in support of proposal

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders. Proposal may include nominations

(5) A corporation is not required to comply with subsections (2) and (3) where, Where subss. (2), (3) do not apply

- (a) the proposal is not submitted to the corporation at least sixty days before the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or at least sixty days before a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;
- (b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the business or affairs of the corporation;
- (c) the corporation, at the shareholder's request, included a proposal in a management information circular relating

to a meeting of shareholders held within two years preceding the receipt of the request, and the shareholder failed to present the proposal, in person or by proxy, at the meeting; or

- (d) substantially the same proposal was submitted to shareholders in a management information circular or a dissident's information circular relating to a meeting of shareholders held within two years preceding the receipt of the shareholder's request and the proposal was defeated.

Where no
liability

(6) No corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section.

Where refusal
to circulate
proposal

(7) Where a corporation refuses to include a proposal in a management information circular, the corporation shall, within ten days after receiving the proposal, send notice to the shareholder submitting the proposal of its intention to omit the proposal from the management information circular and send to him a statement of the reasons for the refusal.

Idem

(8) Upon the application of a shareholder aggrieved by a corporation's refusal under subsection (7), the court may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit.

Idem

(9) The corporation or any person aggrieved by a proposal may apply to the court for an order permitting the corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit.

Idem

(10) An applicant under subsection (8) or (9) shall give the Director notice of the application and the Director is entitled to appear and be heard in person or by counsel.

Interpre-
tation

(11) In this section, "proposal" means a matter that a shareholder entitled to vote proposes to raise at a meeting of shareholders. R.S.O. 1980, c. 54, s. 100, *amended*.

List of
shareholders

100.—(1) A corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared,

- (a) if a record date is fixed under subsection 95 (2), not later than ten days after such record date; or
- (b) if no record date is fixed,

- (i) at the close of business on the day immediately preceding the day on which notice is given, or
- (ii) where no notice is given, on the day on which the meeting is held.

(2) Where a corporation fixes a record date under subsection 95 (2), a person named in the list prepared under clause (1) (a) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that, Entitlement to vote

- (a) the person has transferred any of his shares after the record date; and
- (b) the transferee of those shares,

- (i) produces properly endorsed share certificates, or
- (ii) otherwise establishes that he owns the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that his name be included in the list before the meeting,

in which case the transferee is entitled to vote his shares at the meeting.

(3) Where a corporation does not fix a record date under subsection 95 (2), a person named in a list prepared under clause (1) (b) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that, Idem

- (a) the person has transferred any of his shares after the date on which a list referred to in subclause (1) (b) (i) is prepared; and
- (b) the transferee of those shares,

- (i) produces properly endorsed share certificates, or
- (ii) otherwise establishes that he owns the shares,

and demands not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that his name be included in the list before the meeting,

in which case the transferee is entitled to vote his shares at the meeting.

Examination
of list

- (4) A shareholder may examine the list of shareholders,
- (a) during usual business hours at the registered office of the corporation or at the place where its central securities register is maintained; and
 - (b) at the meeting of shareholders for which the list was prepared. *New.*

Quorum

101.—(1) Unless the by-laws otherwise provide, the holders of a majority of the shares entitled to vote at a meeting of shareholders, whether present in person or represented by proxy, constitute a quorum.

Idem

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

Idem

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

Where only one
shareholder

(4) If a corporation has only one shareholder, or only one holder of any class or series of shares, the shareholder present in person or by proxy constitutes a meeting. *New.*

Voting rights

102.—(1) Unless the articles otherwise provide, each share of a corporation entitles the holder thereof to one vote at a meeting of shareholders.

Representative

(2) Where a body corporate or association is a shareholder of a corporation, the corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the corporation. R.S.O. 1980, c. 54, s. 110 (2), *amended.*

Idem

(3) An individual authorized as set out in subsection (2) may exercise on behalf of the body corporate or association he represents all the powers it could exercise if it were an individual shareholder. R.S.O. 1980, c. 54, s. 111 (1), *amended.*

Joint
shareholders

(4) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them. R.S.O. 1980, c. 54, s. 112, *amended.*

103.—(1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting. Manner of voting

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands. Idem

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion. *New.* Entry in minutes

104.—(1) Except where a written statement is submitted by a director under subsection 123 (2) or where representations in writing are submitted by an auditor under subsection 149 (6), Resolution in lieu of meeting

(a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and

(b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders.

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meetings of shareholders. Copy of resolution kept with minutes
R.S.O. 1980, c. 54, s. 22 (1, 2), *amended.*

105.—(1) The holders of not less than 5 per cent of the issued shares of a corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition. Requisition for shareholders meeting

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the registered office of the corporation. Idem

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless, Duty of directors to call meeting

(a) a record date has been fixed under subsection 95 (2) and notice thereof has been given under subsection 95 (4);

(b) the directors have called a meeting of shareholders and have given notice thereof under section 96; or

(c) the business of the meeting as stated in the requisition includes matters described in clauses 99 (5) (b) to (d).

Where
requisitionist
may call
meeting

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call the meeting.

Calling of
meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws, this Part and Part VIII.

Repayment of
expenses

(6) The corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally. R.S.O. 1980, c. 54, s. 107, *amended*.

Requisition by
court

106.—(1) If for any reason it is impracticable to call a meeting of shareholders of a corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws, the articles and this Act, or if for any other reason the court thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court deems fit.

Power of court

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws, the articles or this Act be varied or dispensed with at a meeting called, held and conducted under this section.

Effect of
meeting

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the corporation duly called, held and conducted. R.S.O. 1980, c. 54, ss. 108, 109, *amended*.

Application to
court

107.—(1) A corporation, shareholder or director may apply to the court to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

Idem

(2) Upon an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares. *New.*

108.—(1) A written agreement between two or more shareholders may provide that in exercising voting rights the shares held by them shall be voted as therein provided. Agreement between shareholders

(2) A written agreement among all the shareholders of a corporation or among all the shareholders and one or more persons who are not shareholders may restrict in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of the corporation. Idem

(3) Where a person who is the beneficial owner of all the issued shares of a corporation makes a written declaration that restricts in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of a corporation, the declaration shall be deemed to be a unanimous shareholder agreement. Unanimous shareholder agreement

(4) Subject to subsection 56 (3), a transferee of shares subject to a unanimous shareholder agreement shall be deemed to be a party to the agreement. Party to unanimous shareholder agreement

(5) A shareholder who is a party to a unanimous shareholder agreement has all the rights, powers, duties and liabilities of a director of the corporation, whether arising under this Act or otherwise, to which the agreement relates to the extent that the agreement restricts the discretion or powers of the directors to manage or supervise the management of the business and affairs of the corporation and the directors are thereby relieved of their duties and liabilities, including any liabilities under section 131, to the same extent. Where shareholder has power, etc., of director

(6) A unanimous shareholder agreement may, without restricting the generality of subsection (2), provide that, Matters that a unanimous shareholder agreement may provide

- (a) any amendment of the unanimous shareholder agreement may be effected in the manner specified therein; and
- (b) in the event that shareholders who are parties to the unanimous shareholder agreement are unable to agree on or resolve any matter pertaining to the agreement, the matter may be referred to arbitration under such procedures and conditions as are specified in the unanimous shareholder agreement. *New.*

PART VIII

PROXIES

Interpretation

109. In this Part,

- (a) “dissident’s information circular” means the circular referred to in clause 112 (1) (b);
- (b) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (c) “management information circular” means the circular referred to in clause 112 (1) (a);
- (d) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a proxyholder to attend and act on his behalf at a meeting of shareholders;
- (e) “solicit” and “solicitation” include,
 - (i) a request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) a request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
 - (iv) the sending of a form of proxy to a shareholder under section 111,

but do not include,

- (v) the sending of a form of proxy in response to an unsolicited request made by or on behalf of a shareholder,
 - (vi) the performance of administrative acts or professional services on behalf of a person soliciting a proxy,
 - (vii) the sending of material under section 48 of the *Securities Act*, R.S.O. 1980,
c. 466
 - (viii) a solicitation by a person in respect of shares of which he is the beneficial owner;
- (f) "solicitation by or on behalf of the management of a corporation" means a solicitation by any person under a resolution or the instructions of the directors of that corporation or a committee of such directors. R.S.O. 1980, c. 54, s. 113, *amended*.

110.—(1) Every shareholder entitled to vote at a meeting of Proxies
shareholders may by means of a proxy appoint a proxyholder or one or more alternate proxyholders, who need not be shareholders, as his nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy.

(2) A proxy shall be executed by the shareholder or his attorney Execution and
termination
authorized in writing or, if the shareholder is a body corporate, by an officer or attorney thereof duly authorized and, in the case of a proxy appointing a proxyholder to attend and act at a meeting or meetings of shareholders of an offering corporation, ceases to be valid one year from its date.

(3) Every form of proxy shall comply with the regulations. Form of
proxy

(4) A shareholder may revoke a proxy, Revocation

(a) by depositing an instrument in writing executed by him or by his attorney authorized in writing,

(i) at the registered office of the corporation at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used, or

(ii) with the chairman of the meeting on the day of the meeting or an adjournment thereof; or

(b) in any other manner permitted by law.

Time limit
for deposit

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting. R.S.O. 1980, c. 54, s. 114, *amended*.

Mandatory
solicitation of
proxy

111. The management of an offering corporation shall, concurrently with or prior to sending notice of a meeting of shareholders, send a form of proxy to each shareholder who is entitled to receive notice of the meeting. R.S.O. 1980, c. 54, s. 115, *amended*.

Information
circular

112.—(1) No person shall solicit proxies in respect of an offering corporation unless,

(a) in the case of solicitation by or on behalf of the management of the corporation, a management information circular in prescribed form, either as an appendix to or as a separate document accompanying the notice of the meeting; or

(b) in the case of any other solicitation, a dissident's information circular in prescribed form,

is sent to the auditor of the corporation, to each shareholder whose proxy is solicited and, if clause (b) applies, to the corporation.

Filing copy

(2) A person, upon sending a management or dissident's information circular, shall concurrently file with the Commission,

(a) in the case of a management information circular, a copy thereof together with a copy of the notice of meeting, form of proxy and of any other documents for use in connection with the meeting; and

(b) in the case of a dissident's information circular, a copy thereof together with a copy of the form of proxy and of any other documents for use in connection with the meeting. R.S.O. 1980, c. 54, s. 116, *amended*.

Exemption
order
re ss. 111,
112

113. Upon the application of any interested person, the Commission may, if satisfied in the circumstances of the particular case that there is adequate justification for so doing, make an order, on such terms and conditions as the Commission may impose, exempting, in whole or in part, any person from the

requirements of section 111 or from the requirements of section 112. R.S.O. 1980, c. 54, s. 117 (2), *amended*.

114.—(1) A person who solicits a proxy and is appointed proxyholder shall attend in person or cause an alternate proxyholder to attend the meeting in respect of which the proxy is given and comply with the directions of the shareholder who appointed him.

(2) A proxyholder or an alternate proxyholder has the same rights as the shareholder who appointed him to speak at a meeting of shareholders in respect of any matter, to vote by way of ballot at the meeting and, except where a proxyholder or an alternate proxyholder has conflicting instructions from more than one shareholder, to vote at such a meeting in respect of any matter by way of a show of hands.

(3) Notwithstanding subsections (1) and (2), where the chairman of a meeting of shareholders declares to the meeting that, to the best of his belief, if a ballot is conducted, the total number of votes attached to the shares represented at the meeting by proxy required to be voted against what will be the decision of the meeting in relation to any matter or group of matters is less than 5 per cent of all the votes that might be cast at the meeting on such ballot, and where a shareholder, proxyholder or alternate proxyholder does not demand a ballot,

(a) the chairman may conduct the vote in respect of that matter or group of matters by a show of hands; and

(b) a proxyholder or alternate proxyholder may vote in respect of that matter or group of matters by a show of hands. *New.*

PART IX

DIRECTORS AND OFFICERS

115.—(1) Subject to any unanimous shareholder agreement, the directors shall manage or supervise the management of the business and affairs of a corporation. R.S.O. 1980, c. 54, s. 130, *amended*.

(2) The board of directors shall consist of,

Board of
directors

(a) in the case of a corporation that is not an offering corporation, at least one individual; and

(b) in the case of a corporation that is an offering corporation, not fewer than three individuals.

(3) At least one-third of the directors of an offering corporation shall not be officers or employees of the corporation or any of its affiliates. R.S.O. 1980, c. 54, s. 120 (2), *amended*.

Idem

By-laws by
resolution

116.—(1) Unless the articles, the by-laws or a unanimous shareholder agreement otherwise provide, the directors may, by resolution, make, amend or repeal any by-laws that regulate the business or affairs of a corporation.

Confirmation
by shareholders

(2) Where the directors make, amend or repeal a by-law under subsection (1), they shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders may confirm, reject or amend the by-law, amendment or repeal.

Effective
date

(3) Where a by-law is made, amended or repealed under subsection (1), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (2) or until it ceases to be effective under subsection (4) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.

Rejection, etc.

(4) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (2), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.

By-law re
shareholder
proposal

(5) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 99 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.

By-law need
not be so
described

(6) A by-law need not be described as a by-law in a resolution referred to in this section. R.S.O. 1980, c. 54, s. 20, *amended*.

First directors
meeting

117.—(1) After incorporation, a meeting of the directors of a corporation shall be held at which the directors may,

(a) make by-laws;

(b) adopt forms of security certificates and corporate records;

(c) authorize the issue of securities;

- (d) appoint officers;
- (e) appoint one or more auditors to hold office until the first annual or special meeting of shareholders;
- (f) make banking arrangements; and
- (g) transact any other business.

(2) Any matter referred to in subsection (1) may be dealt with by the directors by a resolution in writing in accordance with subsection 129 (1). Resolution in writing

(3) Subsection (1) does not apply to a body corporate that is an amalgamated corporation under section 177 or that is continued under section 179. Where subs. (1) does not apply

(4) An incorporator or a director may call the meeting of directors referred to in subsection (1) by giving not less than five days notice thereof to each director, stating the time and place of the meeting. *New.* Calling meeting

118.—(1) The following persons are disqualified from being a director of a corporation: Director disqualification

1. A person who is less than eighteen years of age.
2. A person who is of unsound mind and has been so found by a court in Canada or elsewhere.
3. A person who is not an individual.
4. A person who has the status of bankrupt. **R.S.O. 1980, c. 54, s. 123, *part, amended.***

(2) Unless the articles otherwise provide, a director of a corporation is not required to hold shares issued by the corporation. *New.* Holding shares

(3) A majority of the directors of every corporation other than a non-resident corporation shall be resident Canadians but where a corporation has only one or two directors, that director or one of the two directors, as the case may be, shall be a resident Canadian. **R.S.O. 1980, c. 54, s. 120 (3), *amended.*** Directors to be resident Canadians

119.—(1) Each director named in the articles shall hold office from the date of endorsement of the certificate of incorporation until the first meeting of shareholders. First directors

(2) No director named in the articles shall be permitted to resign his office unless at the time the resignation is to become effective a successor is elected or appointed. Idem

Idem

(3) The first directors of a corporation named in the articles have all the powers and duties and are subject to all the liabilities of directors.

Election of directors

(4) Subject to clause 120 (a), shareholders of a corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting at which an election of directors is required, directors to hold office for a term expiring not later than the close of the third annual meeting of shareholders following the election.

Term for directors

(5) It is not necessary that all directors elected at a meeting of shareholders hold office for the same term.

Idem

(6) A director not elected for an expressly stated term ceases to hold office at the close of the first annual meeting of shareholders following his election.

Idem

(7) Notwithstanding the provisions of this section, if directors are not elected at a meeting of shareholders the incumbent directors continue in office until their successors are elected.

Failure to elect required number of directors

(8) If a meeting of shareholders fails to elect the number of directors required by the articles or by section 125 by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the corporation pending the holding of a meeting of shareholders in accordance with subsection 124 (3). R.S.O. 1980, c. 54, ss. 121, 124, *amended*.

Cumulative voting for directors

120. Where the articles provide for cumulative voting,

- (a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;
- (b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;
- (c) if a shareholder has voted for more than one candidate without specifying the distribution of his votes among the candidates, he is deemed to have distributed his votes equally among the candidates for whom he voted;

- (d) if the number of candidates nominated for director exceeds the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) each director ceases to hold office at the close of the first annual meeting of shareholders following his election;
- (f) a director may not be removed from office if the votes cast against his removal would be sufficient to elect him and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected;
- (g) the number of directors required by the articles may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected; and
- (h) the articles shall require a fixed number and not a minimum and maximum number of directors. R.S.O. 1980, c. 54, ss. 125, 138, *amended*.

121.—(1) A director of a corporation ceases to hold office when, When director ceases to hold office

- (a) he dies or, subject to subsection 119 (2), resigns;
- (b) he is removed in accordance with section 122; or
- (c) he becomes disqualified under subsection 118 (1).

(2) A resignation of a director becomes effective at the time a Idem written resignation is received by the corporation or at the time specified in the resignation, whichever is later. *New*.

122.—(1) Subject to clause 120 (f) the shareholders of a Removal of directors corporation may by ordinary resolution at an annual or special meeting remove any director or directors from office.

(2) Where the holders of any class or series of shares of a Idem corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series.

Idem	(3) Subject to clauses 120 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 124. R.S.O. 1980, c. 54, s. 138, <i>amended</i> .
Entitlement of director	123. —(1) A director of a corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders.
Idem	(2) A director who, <ul style="list-style-type: none"> (a) resigns; (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him from office; or (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because his term of office has expired or is about to expire, <p>is entitled to submit to the corporation a written statement giving the reasons for his resignation or the reasons why he opposes any proposed action or resolution, as the case may be.</p>
Distribution of statement	(3) Upon receiving a statement under subsection (2), a corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders and to the Director unless the statement is included in or attached to a management information circular required by section 112.
No liability	(4) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (3). <i>New</i> .
Vacancies	124. —(1) Notwithstanding subsection 126 (6), but subject to subsections (2), (4) and (5) of this section, a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from, <ul style="list-style-type: none"> (a) an increase in the number of directors otherwise than in accordance with subsection (2), or in the maximum number of directors, as the case may be; or (b) a failure to elect the number of directors required to be elected at any meeting of shareholders.
Appointment of directors subsequent to annual meeting	(2) Where a special resolution passed under subsection 125 (2) empowers the directors of a corporation the articles of which

provide for a minimum and maximum number of directors to determine the number of directors, the directors may not, between meetings of shareholders, appoint an additional director if, after such appointment, the total number of directors would be greater than one and one-third times the number of directors required to have been elected at the last annual meeting of shareholders.

(3) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the articles or by section 125, the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder. Election of directors to make quorum

(4) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors, Where elected by class of shareholders

(a) subject to subsection (5), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a failure to elect the number of directors for that class or series; or

(b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy.

(5) The articles may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series. Idem. where no quorum

(6) A director appointed or elected to fill a vacancy holds office for the unexpired term of his predecessor. Term R.S.O. 1980, c. 54, s. 128, *amended*.

125.—(1) A corporation may increase or decrease the number, or the minimum or maximum number, of its directors in accordance with clause 167 (1) (*m*), but no decrease in the number of directors shall shorten the term of an incumbent director. Change in number of directors

(2) Where a minimum and maximum number of directors of a corporation is provided for in its articles, the number of directors of the corporation and the number of directors to be elected at the annual meeting of the shareholders shall be such number as shall be determined from time to time by special resolution or, if the Number of directors

special resolution empowers the directors to determine the number, by resolution of the directors.

Filing of
special
resolution

(3) The corporation shall file with the Director a certified copy of a special resolution or resolution of the directors, as the case may be, referred to in subsection (2), within ten days after it is passed.

Validity

(4) Failure to comply with subsection (3) does not affect the validity of a special resolution or resolution of the directors therein referred to. R.S.O. 1980, c. 54, s. 122, *amended*.

Place of
meetings

126.—(1) Subject to subsection (2), a meeting of the board of directors shall be held at the place where the registered office of the corporation is located.

Exceptions

(2) Where the by-laws of the corporation so provide, a meeting of the board of directors may be held at any place within or outside Ontario, but, except where the corporation is a non-resident corporation or the articles or the by-laws otherwise provide, in any financial year of the corporation a majority of the meetings of the board of directors shall be held at a place within Canada.

Quorum

(3) Subject to the articles or by-laws and subsection (4), a majority of the number of directors or minimum number of directors required by the articles constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors or minimum number of directors, as the case may be.

Idem

(4) Where a corporation has fewer than three directors, both directors of the corporation must be present at any meeting of directors to constitute a quorum.

Idem

(5) Subject to the articles or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Transacting
business

(6) Directors, other than directors of a non-resident corporation, shall not transact business at a meeting of directors unless a majority of directors present are resident Canadians.

Idem

(7) Notwithstanding subsection (6), directors may transact business at a meeting of directors where a majority of resident Canadian directors is not present if,

- (a) a resident Canadian director who is unable to be present approves in writing or by telephone or other communications facilities the business transacted at the meeting; and

- (b) a majority of resident Canadian directors would have been present had that director been present at the meeting.

(8) In addition to any other provision in the articles or by-laws of a corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting. Calling meeting of directors

(9) In the absence of any other provision in that behalf in the by-laws of the corporation, notice of the time and place for the holding of the meeting called under subsection (8) shall be given to every director of the corporation by sending the notice ten days or more before the date of the meeting to his latest address as shown on the records of the corporation. Notice

(10) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. Waiver of notice

(11) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. Adjourned meeting

(12) Where a corporation has only one director, that director may constitute a meeting. Where one director

(13) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting. Meeting by telephone, etc.

(14) If a majority of the directors participating in a meeting held under subsection (13) are then in Canada, the meeting shall be deemed to have been held in Canada. R.S.O. 1980, c. 54, s. 129, *amended*. Place of meeting by telephone

127.—(1) Subject to the articles or by-laws, directors of a corporation may appoint from their number a managing director, Delegation by directors

who is a resident Canadian, or a committee of directors and delegate to such managing director or committee any of the powers of the directors.

Idem

(2) If the directors of a corporation other than a non-resident corporation, appoint a committee of directors, a majority of the members of the committee shall be resident Canadians.

Limitations
on authority

(3) Notwithstanding subsection (1), no managing director and no committee of directors has authority to,

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or in the office of auditor or appoint or remove any of the chief executive officer, however designated, the chief financial officer, however designated, the chairman or the president of the corporation;
- (c) subject to section 183, issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 37;
- (g) approve a management information circular referred to in Part VIII;
- (h) approve a take-over bid circular, directors' circular, or issuer bid circular referred to in Part XIX of the *Securities Act*;
- (i) approve any financial statements referred to in clause 153 (1) (b) of the Act and Part XVII of the *Securities Act*; or
- (j) adopt, amend or repeal by-laws. R.S.O. 1980, c. 54, s. 131, *amended*.

R.S.O. 1980,
c. 466

Validity of acts
of directors and
officers

128. An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. R.S.O. 1980, c. 54, s. 143.

129.—(1) A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors. R.S.O. 1980, c. 54, s. 22 (1), *amended*. Resolutions in writing

(2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors. *New*. Copy to be kept

130.—(1) Directors of a corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money contrary to section 23 are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution. *New*. Liability of directors

(2) Directors of a corporation who vote for or consent to a resolution authorizing, Idem

- (a) any financial assistance contrary to section 20;
- (b) a purchase, redemption or other acquisition of shares contrary to section 30, 31 or 32;
- (c) a commission contrary to section 37;
- (d) a payment of a dividend contrary to section 38;
- (e) a payment of an indemnity contrary to section 136; or
- (f) a payment to a shareholder contrary to section 184 or 247,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by the corporation.

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded. Joint liability

(4) A director liable under subsection (2) is entitled to apply to the court for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 20, 30, 31, 32, 37, 38, 136, 184 or 247. Application to court

What court
may order

(5) In connection with an application under subsection (4), the court may, if it is satisfied that it is equitable to do so,

- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 20, 30, 31, 32, 37, 38, 136, 184 or 247;
- (b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or
- (c) make any further order it thinks fit.

Exception to
subs. (1)

(6) A director is not liable under subsection (1) if he proves that he did not know and could not reasonably have known that the share was issued for a consideration less than the fair equivalent of the money that the corporation would have received if the share had been issued for money.

Time limitation

(7) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the resolution authorizing the action complained of. R.S.O. 1980, c. 54, ss. 133, 134, 144, *amended*.

Directors' liability
to employees
for wages

131.—(1) The directors of a corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder, or under any collective agreement made by the corporation.

R.S.O. 1980,
c. 137

Limitation

- (2) A director is liable under subsection (1) only if,
- (a) he is sued while he is a director or within six months after he ceases to be a director; and
 - (b) the action against the director is commenced within six months after the debts became payable, and
 - (i) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part, or
 - (ii) before or after the action is commenced the corporation goes into liquidation, is ordered to be wound up or makes an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) is made against it, and in any such case, the claim for the debts is proved.

R.S.C. 1970,
c. B-4

(3) Where execution referred to in clause (2) (b) has issued, the ^{Idem} amount recoverable from a director is the amount remaining unsatisfied after execution.

(4) Where a director pays a debt under subsection (1) that is ^{Rights of director who pays debt} proved in liquidation and dissolution or bankruptcy proceedings, he is entitled to any preference that the employee would have been entitled to, and where a judgment has been obtained he is entitled to an assignment of the judgment.

(5) A director who has satisfied a claim under this section is ^{Idem} entitled to contribution from the other directors who were liable for the claim. R.S.O. 1980, c. 54, s. 137, *amended*.

132.—(1) A director or officer of a corporation who, ^{Disclosure: conflict of interest}

(a) is a party to a material contract or transaction or proposed material contract or transaction with the corporation; or

(b) is a director or an officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the corporation,

shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his interest.

(2) The disclosure required by subsection (1) shall be made, in ^{by director} the case of a director,

(a) at the meeting at which a proposed contract or transaction is first considered;

(b) if the director was not then interested in a proposed contract or transaction, at the first meeting after he becomes so interested;

(c) if the director becomes interested after a contract is made or a transaction is entered into, at the first meeting after he becomes so interested; or

(d) if a person who is interested in a contract or transaction later becomes a director, at the first meeting after he becomes a director.

by officer

(3) The disclosure required by subsection (1) shall be made, in the case of an officer who is not a director,

- (a) forthwith after he becomes aware that the contract or transaction or proposed contract or transaction is to be considered or has been considered at a meeting of directors;
- (b) if the officer becomes interested after a contract is made or a transaction is entered into, forthwith after he becomes so interested; or
- (c) if a person who is interested in a contract or transaction later becomes an officer, forthwith after he becomes an officer.

Where
contract or
transaction
does not
require
approval

(4) Notwithstanding subsections (2) and (3), where subsection (1) applies to a director or officer in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the corporation's business, would not require approval by the directors or shareholders, the director or officer shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his interest forthwith after the director or officer becomes aware of the contract or transaction or proposed contract or transaction.

Director
not to vote

(5) A director referred to in subsection (1) shall not vote on any resolution to approve the contract or transaction unless the contract or transaction is,

- (a) an arrangement by way of security for money lent to or obligations undertaken by him for the benefit of the corporation or an affiliate;
- (b) one relating primarily to his remuneration as a director, officer, employee or agent of the corporation or an affiliate;
- (c) one for indemnity or insurance under section 136; or
- (d) one with an affiliate. *New.*

General notice
of interest

(6) For the purposes of this section, a general notice to the directors by a director or officer disclosing that he is a director or officer of or has a material interest in a person and is to be regarded as interested in any contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any contract so made or transaction so entered into. R.S.O. 1980, c. 54, s. 132 (6), *amended*.

(7) Where a material contract is made or a material transaction is entered into between a corporation and a director or officer of the corporation, or between a corporation and another person of which a director or officer of the corporation is a director or officer or in which he has a material interest, Effect of disclosure

(a) the director or officer is not accountable to the corporation or its shareholders for any profit or gain realized from the contract or transaction; and

(b) the contract or transaction is neither void nor voidable,

by reason only of that relationship or by reason only that the director is present at or is counted to determine the presence of a quorum at the meeting of directors that authorized the contract or transaction, if the director or officer disclosed his interest in accordance with subsection (2), (3), (4) or (6), as the case may be, and the contract or transaction was reasonable and fair to the corporation at the time it was so approved. R.S.O. 1980, c. 54, s. 132 (4), *amended*.

(8) Notwithstanding anything in this section, a director or officer, acting honestly and in good faith, is not accountable to the corporation or to its shareholders for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director or officer, and the contract or transaction, if it was reasonable and fair to the corporation at the time it was approved, is not by reason only of the director's or officer's interest therein void or voidable, where, Confirmation by shareholders

(a) the contract or transaction is confirmed or approved by special resolution at a meeting of the shareholders duly called for that purpose; and

(b) the nature and extent of the director's or officer's interest in the contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in the information circular required by section 112.

(9) Subject to subsections (7) and (8), where a director or officer of a corporation fails to disclose his interest in a material contract or transaction in accordance with this section or otherwise fails to comply with this section, the corporation or a shareholder of the corporation, or, in the case of an offering corporation, the Commission may apply to the court for an order setting aside the contract or transaction and directing that the director or officer account to the corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit. *New*. Court setting aside contract

133. Subject to the articles, the by-laws or any unanimous shareholder agreement, Officers

- (a) the directors may designate the offices of the corporation, appoint officers, specify their duties and delegate to them powers to manage the business and affairs of the corporation, except, subject to section 183, powers to do anything referred to in subsection 127 (3);
- (b) a director may be appointed to any office of the corporation; and
- (c) two or more offices of the corporation may be held by the same person. *New.*

Standards of care, etc., of directors, etc.

134.—(1) Every director and officer of a corporation in exercising his powers and discharging his duties shall,

- (a) act honestly and in good faith with a view to the best interests of the corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. R.S.O. 1980, c. 54, s. 142, *amended*.

Duty to comply with Act, etc.

(2) Every director and officer of a corporation shall comply with this Act, the regulations, articles, by-laws and any unanimous shareholder agreement.

Can not contract out of liability

(3) Subject to subsection 108 (5), no provision in a contract, the articles, the by-laws or a resolution relieves a director or officer from the duty to act in accordance with this Act and the regulations or relieves him from liability for a breach thereof. *New.*

Consent of director at meeting

135.—(1) A director who is present at a meeting of directors or committee of directors is deemed to have consented to any resolution passed or action taken thereat unless,

- (a) he requests that his dissent be or his dissent is entered in the minutes of the meeting;
- (b) he sends his written dissent to the secretary of the meeting before the meeting is terminated; or
- (c) he sends his dissent by registered mail or delivers it to the registered office of the corporation immediately after the meeting is terminated.

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented

thereto unless within seven days after he becomes aware of the resolution he,

- (a) causes his dissent to be placed with the minutes of the meeting; or
- (b) sends his dissent by registered mail or delivers it to the registered office of the corporation.

(4) A director is not liable under section 130 or 134 if he relies in good faith upon, Entitled to rely on statements, etc.

- (a) financial statements of the corporation represented to him by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by him. R.S.O. 1980, c. 54, s. 135, *amended*.

136.—(1) A corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor, and his heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him in respect of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of such corporation or body corporate, if, indemnification of directors

- (a) he acted honestly and in good faith with a view to the best interests of the corporation; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he had reasonable grounds for believing that his conduct was lawful.

(2) A corporation may, with the approval of the court, idem indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour, to which he is made a party by reason of being or having been a director or an officer of the corporation or body corporate, against all costs, charges and

expenses reasonably incurred by him in connection with such action if he fulfils the conditions set out in clauses (1) (a) and (b).

Idem

(3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by him in connection with the defence of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of the corporation or body corporate, if the person seeking indemnity,

(a) was substantially successful on the merits in his defence of the action or proceeding; and

(b) fulfils the conditions set out in clauses (1) (a) and (b).

Liability
insurance

(4) A corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by him,

(a) in his capacity as a director or officer of the corporation, except where the liability relates to his failure to act honestly and in good faith with a view to the best interests of the corporation; or

(b) in his capacity as a director or officer of another body corporate where he acts or acted in that capacity at the corporation's request, except where the liability relates to his failure to act honestly and in good faith with a view to the best interests of the body corporate.

Application to
court

(5) A corporation or a person referred to in subsection (1) may apply to the court for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.

Idem

(6) Upon an application under subsection (5), the court may order notice to be given to any interested person and such person is entitled to appear and be heard in person or by counsel. R.S.O. 1980, c. 54, s. 145, *amended*.

Remuneration
of directors

137. Subject to the articles, the by-laws or any unanimous shareholder agreement, the directors of a corporation may fix the remuneration of the directors, officers and employees of the corporation. R.S.O. 1980, c. 54, s. 21 (1), *amended*.

PART X

INSIDER LIABILITY

138.—(1) In this Part,

Interpretation

- (a) “corporation” means a corporation that is not an offering corporation;
- (b) “insider” means, with respect to a corporation,
 - (i) the corporation,
 - (ii) an affiliate of the corporation,
 - (iii) a director or officer of the corporation,
 - (iv) a person who beneficially owns, directly or indirectly, more than 10 per cent of the voting securities of the corporation or who exercises control or direction over more than 10 per cent of the votes attached to the voting securities of the corporation,
 - (v) a person employed or retained by the corporation, or
 - (vi) a person who receives specific confidential information from a person described in this clause or in subsection (3), including a person described in this subclause, and who has knowledge that the person giving the information is a person described in this clause or in subsection (3), including a person described in this subclause;
- (c) “security” includes a warrant.

(2) For the purposes of this Part,

Insider

- (a) a director or officer of a body corporate that is an insider of a corporation is deemed to be an insider of the corporation;
- (b) a director or officer of a body corporate that is a subsidiary is deemed to be an insider of its holding corporation;

- (c) a person is deemed to own beneficially shares beneficially owned by a body corporate controlled by him directly or indirectly; and
- (d) a body corporate is deemed to own beneficially shares beneficially owned by its affiliates.

Idem

(3) For the purposes of this Part,

- (a) where a body corporate becomes an insider of a corporation, or enters into a business combination with a corporation, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in subclause (1) (b) (iv) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he was a director, an officer or such a shareholder of the body corporate; and
- (b) where a corporation becomes an insider of a body corporate or enters into a business combination with a body corporate, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in subclause (1) (b) (iv) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he was a director, an officer or such a shareholder of the body corporate.

Business combination

(4) In subsection (3), “business combination” means an acquisition of all or substantially all the property of one body corporate by another or an amalgamation of two or more bodies corporate.

Liability of insider

(5) An insider who, in connection with a transaction in a security of the corporation or any of its affiliates, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of the security,

- (a) is liable to compensate any person for any direct loss suffered by that person as a result of the transaction, unless the information was known or in the exercise of reasonable diligence should have been known to that person; and
- (b) is accountable to the corporation for any direct benefit or advantage received or receivable by the insider as a result of the transaction.

(6) An action to enforce a right created by subsection (5) may be commenced only within two years after discovery of the facts that gave rise to the cause of action. *New.* Limitation period

PART XI

BOOKS AND RECORDS

139.—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device. Records

(2) The corporation shall,

- (a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and
- (b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

Guard
against
falsification
of records

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein. Admissibility of records in evidence

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or, False information

- (a) record or assist in recording any information in a record; or
- (b) make information purporting to be accurate available in a form referred to in clause (2) (b),

knowing it to be untrue. R.S.O. 1980, c. 54, s. 149, *amended*.

140.—(1) A corporation shall prepare and maintain, at its registered office or at such other place in Ontario designated by the directors, Records

- (a) the articles and the by-laws and all amendments thereto, and a copy of any unanimous shareholder agreement known to the directors;
- (b) minutes of meetings and resolutions of shareholders;
- (c) a register of directors in which are set out the names and residence addresses, while directors, including the street

and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;

(d) a securities register complying with section 141.

Idem

(2) In addition to the records described in subsection (1), a corporation shall prepare and maintain,

(a) adequate accounting records; and

(b) records containing minutes of meetings and resolutions of the directors and any committee thereof,

but, provided the retention requirements of any taxing authority of Ontario, the government of Canada or any other jurisdiction to which the corporation is subject have been satisfied, the accounting records mentioned in clause (a) need only be retained by the corporation for six years from the end of the last fiscal period to which they relate.

Idem

(3) For the purposes of clause (1) (b) and subsection (2), where a body corporate is continued under this Act, "records" includes similar records required by law to be maintained by the body corporate before it was so continued. R.S.O. 1980, c. 54, ss. 150, 153, *amended*.

Securities
register

141.—(1) A corporation shall prepare and maintain at its registered office, or at any other place in Ontario designated by the directors, a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities,

(a) the names, alphabetically arranged of persons who,

(i) are or have been within six years registered as shareholders of the corporation, the address including the street and number, if any, of every such person while a holder, and the number and class of shares registered in the name of such holder,

(ii) are or have been within six years registered as holders of debt obligations of the corporation, the address including the street and number, if any, of every such person while a holder, and the class or series and principal amount of the debt obligations registered in the name of such holder, or

- (iii) are or have been within six years registered as holders of warrants of the corporation, other than warrants exercisable within one year from the date of issue, the address including the street and number, if any, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and

- (b) the date and particulars of the issue of each security and warrant. R.S.O. 1980, c. 54, s. 150, *amended*.

(2) A corporation shall cause to be kept a register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out. R.S.O. 1980, c. 54, s. 151. Register of transfers

(3) In this section and in section 143, “registered form” has the same meaning as in Part VI. *New*. Interpretation

142. For each class of securities and warrants issued by it, a corporation may appoint, Transfer agents

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and, subject to section 48, one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities and warrants of the corporation or any class or classes thereof. R.S.O. 1980, c. 54, s. 152, *amended*.

143.—(1) The securities register and the register of transfers shall be kept at the registered office of a corporation or at such other places in Ontario designated by the directors, and the branch register or registers of transfers may be kept at such offices of the corporation or other places, either within or outside Ontario, designated by the directors. Where registers to be kept

(2) Registration of the transfer of a security or warrant of a corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes. Valid registration

Entry in
branch
transfer
register

(3) In each branch register of transfers there shall be recorded only the particulars of the transfers of securities or warrants registered in that branch register of transfers.

Entry in
register of
transfers

(4) Particulars of every transfer of securities and warrants registered in every branch register of transfers shall be recorded in the register of transfers.

Documents not
required to be
produced

(5) A corporation or a person appointed under section 142 is not required to produce,

(a) any security certificate or warrant that is not in registered form; or

(b) any security certificate or warrant that is in registered form after six years,

(i) in the case of a share certificate, from the date of its cancellation,

(ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or

(iii) in the case of a certificate representing a debt obligation, from the date of cancellation of such certificate. R.S.O. 1980, c. 54, s. 153, *amended*.

Records open
to examination
by directors

144.—(1) The records mentioned in sections 140 and 141 shall, during normal business hours of a corporation, be open to examination by any director and shall, except as provided in sections 140 and 143 and in subsections (2) and (3) of this section, be kept at the registered office of the corporation.

Records of
account at
branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the registered office of the corporation or such other place as is authorized under this section such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Order for
removal of
records

(3) Where a corporation,

(a) shows, to the satisfaction of the Director, the necessity of keeping all or any of the records mentioned in subsection (1) at a place other than the registered office of the corporation; and

(b) gives the Director adequate assurance, by surety bond or otherwise, that such records will be open for examination,

(i) at the registered office or some other place in Ontario designated by the Director, and

(ii) by any person who is entitled to examine them and who has applied to the Director for such an examination,

the Director may, by order and upon such terms as he thinks fit, permit the corporation to keep all or any of them at such place or places, other than the registered office, as he thinks fit.

(4) The Director may by order upon such terms as he thinks fit rescind any order made under subsection (3) or any order made by the Lieutenant Governor in Council or the Minister under a predecessor of that subsection. R.S.O. 1980, c. 54, s. 154, *amended*.

Rescission of orders made under subs. (3)

145.—(1) Shareholders and creditors of a corporation, their agents and legal representatives may examine the records referred to in subsection 140 (1) during the usual business hours of the corporation, and may take extracts therefrom, free of charge, and, where the corporation is an offering corporation, any other person may do so upon payment of a reasonable fee.

Examination of records by shareholders and creditors

(2) A shareholder of a corporation is entitled upon request and without charge to one copy of the articles and by-laws and of any unanimous shareholder agreement. R.S.O. 1980, c. 54, s. 155, *amended*.

Copy

146.—(1) Shareholders and creditors of a corporation, their agents and legal representatives and, where the corporation is an offering corporation, any other person, upon payment of a reasonable fee and upon sending to the corporation or its transfer agent the statutory declaration referred to in subsection (6), may require the corporation or its transfer agent to furnish a basic list setting out the names of the shareholders of the corporation, the number of shares of each class and series owned by each shareholder and the address of each shareholder, all as shown on the records of the corporation.

List of shareholders

(2) The basic list referred to in subsection (1) shall be furnished to the applicant as soon as is practicable and, when furnished, shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained, but, in any case, shall be furnished not more than ten days following the receipt by the corporation or its transfer agent of the statutory

Idem

declaration referred to in subsection (1) and shall be made up to a date not more than ten days before the date on which it is actually furnished.

Supplemental
lists

(3) A person requiring a corporation to supply a basic list may, if he states in the statutory declaration referred to in subsection (1) that he requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the shareholders and the number of shares owned by each shareholder for each business day following the date to which the basic list is made up.

Idem

(4) The corporation or its agent shall furnish a supplemental list required under subsection (3),

(a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and

(b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

List of
option holders

(5) A person requiring a corporation to supply a basic or supplemental list may also require the corporation to include in that list the name and address of any known holder of an option or right to acquire shares of the corporation.

Statutory
declaration

(6) The statutory declaration required under subsection (1) shall state,

(a) the name and address including street and number, if any, of the applicant and whether the applicant is a shareholder, creditor or any other person referred to in the subsection;

(b) the name and address including street and number, if any, for service of the body corporate if the applicant is a body corporate; and

(c) that the basic list and any supplemental lists shall be used only as permitted under subsection (8).

Idem

(7) If the applicant is a body corporate, the statutory declaration shall be made by a director or officer of the body corporate.

Use of list

(8) A list of shareholders obtained under this section shall not be used by any person except in connection with,

- (a) an effort to influence the voting by shareholders of the corporation;
- (b) an offer to acquire shares of the corporation; or
- (c) any other matter relating to the affairs of the corporation. R.S.O. 1980, c. 54, s. 156, *amended*.

147. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities or warrants of a corporation. R.S.O. 1980, c. 54, s. 158, *amended*. Trafficking
in lists

PART XII

AUDITORS AND FINANCIAL STATEMENTS

148.—(1) In respect of a financial year of a corporation, the corporation is exempt from the requirements of this Part regarding the appointment and duties of an auditor, Exemption
from audit
requirements

- (a) where,
 - (i) the corporation is not an offering corporation,
 - (ii) all of the shareholders of the corporation consent thereto in writing in respect of that year, and
 - (iii) the corporation has assets not exceeding \$2,500,000 and sales or gross operating revenues not exceeding \$5,000,000 as shown on the financial statement of the corporation for the preceding year; or
- (b) where the corporation has been exempted by the Director under subsection (2) in respect of that financial year.

(2) A corporation other than an offering corporation, all the shareholders of which consent thereto in writing, may apply to the Director for exemption from the requirements of this Part regarding the appointment and duties of an auditor in respect of a financial year, by filing an application in prescribed form together with such documents as may be prescribed, and after giving to the corporation and to such other persons whom he considers should be given the opportunity, an opportunity to be heard, the Director may, subject to the regulations, and upon such terms and conditions as he may impose, exempt the corporation and any of its affiliates from the audit requirements of this Part where, in his opinion to do so would not be prejudicial to the public interest. Idem

(3) For the purposes of subclause (1) (a) (iii), the assets and sales or gross operating revenues of a corporation include the Interpre-
tation

R.S.C. 1952, c. 148 assets and sales or gross operating revenues of each of its affiliates resident in Canada for the purposes of the *Income Tax Act* (Canada). R.S.O. 1980, c. 54, s. 161, *amended*.

Auditors **149.**—(1) The shareholders of a corporation at their first annual or special meeting shall appoint one or more auditors to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.

Idem (2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.

Casual vacancy (3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.

Removal of auditor (4) The shareholders may, except where the auditor has been appointed by order of the court under subsection (8), by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.

Notice to auditor (5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,

(a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and

(b) a copy of all material proposed to be sent to shareholders in connection with the meeting.

Right of auditor to make representations (6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,

(a) his proposed removal as auditor;

(b) the appointment or election of another person to fill the office of auditor; or

(c) his resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors. Remuneration

(8) If a corporation does not have an auditor, the court may, upon the application of a shareholder or the Director, appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders. Appointment by court

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. Notice of appointment
R.S.O. 1980, c. 54, s. 161, *amended*.

150.—(1) The auditor of a corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, to attend and be heard thereat on matters relating to his duties as auditor. Auditor may attend shareholders' meetings

(2) If any director or shareholder of a corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, not less than five days or more before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting at the expense of the corporation and answer questions relating to his duties as auditor. Auditor's attendance may be required

(3) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation. Notice to corporation

(4) No person shall accept appointment or consent to be appointed as auditor of a corporation if he is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until he has requested and received from that auditor a written statement of the circumstances and the reasons why, in that auditor's opinion, he is to be replaced. Replacing auditor

(5) Notwithstanding subsection (4), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, he does not receive a reply. Idem

(6) Any interested person may apply to the court for an order declaring an auditor to be disqualified and the office of auditor to Idem

be vacant if the auditor has not complied with subsection (4), unless subsection (5) applies with respect to the appointment of the auditor.

Statement by
auditor
privileged

(7) Any oral or written statement or report made under this Act by the auditor or former auditor of the corporation has qualified privilege. R.S.O. 1980, c. 54, s. 164, *part, amended*.

Disqualification
as auditor

151.—(1) Subject to subsection (5), a person is disqualified from being an auditor of a corporation if he is not independent of the corporation, all of its affiliates, or of the directors or officers of the corporation and its affiliates.

Independence

(2) For the purposes of this section,

(a) independence is a question of fact; and

(b) a person is deemed not to be independent if he or his business partner,

(i) is a business partner, director, officer or employee of the corporation or any of its affiliates, or a business partner of any director, officer or employee of the corporation or any of its affiliates,

(ii) beneficially owns directly or indirectly or exercises control or direction over a material interest in the securities of the corporation or any of its affiliates, or

(iii) has been a receiver, receiver and manager, liquidator or trustee in bankruptcy of the corporation or any of its affiliates within two years of his proposed appointment as auditor of the corporation.

Resignation
by auditor

(3) An auditor who becomes disqualified under this section shall, subject to subsection (5), resign forthwith upon becoming aware of his disqualification.

Application to
court

(4) An interested person may apply to the court for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant.

Idem

(5) An interested person may apply to the court for an order exempting an auditor from disqualification under this section and the court may, if it is satisfied that an exemption would not unfairly prejudice the shareholders, make an exemption order on

such terms as it thinks fit, which order may have retrospective effect. R.S.O. 1980, c. 54, s. 163, *amended*.

152.—(1) An auditor of a corporation shall make such examination of the financial statements required by this Act to be placed before shareholders as is necessary to enable him to report thereon and he shall report as prescribed and in accordance with generally accepted auditing standards. Examination by auditor

(2) A director or an officer of a corporation shall forthwith notify the audit committee and the auditor or the former auditor of any error or misstatement of which he becomes aware in a financial statement that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be significant. Reporting error

(3) If the auditor or former auditor of a corporation is notified or becomes aware of an error or misstatement in a financial statement upon which he has reported, and if in his opinion the error or misstatement is material, he shall inform each director accordingly. Idem

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall within a reasonable time, Amendment of auditor's report

(a) prepare and issue revised financial statements; or

(b) otherwise inform the shareholders.

(5) Upon the demand of an auditor of a corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such, Right of access

(a) information and explanations; and

(b) access to records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable him to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish.

(6) Upon the demand of the auditor of a corporation, the directors of the corporation shall, Furnishing information

(a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or

former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable him to make the examination and report required under this section; and

- (b) furnish the information and explanations so obtained to the auditor.

Idem

(7) Any oral or written communication under this section between the auditor or former auditor of a corporation and its present or former directors, officers, employees or agents or those of any subsidiary of the corporation, has qualified privilege. R.S.O. 1980, c. 54, s. 164, *part, amended*.

Information to
be laid before
annual meeting

153.—(1) The directors shall place before each annual meeting of shareholders,

- (a) in the case of a corporation that is not an offering corporation, financial statements for the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting;
- (b) in the case of a corporation that is an offering corporation, the financial statements required to be filed under the *Securities Act* and the regulations thereunder relating separately to,
 - (i) the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, and
 - (ii) the immediately preceding financial year if any;
- (c) the report of the auditor, if any, to the shareholders; and
- (d) any further information respecting the financial position of the corporation and the results of its operations required by the articles, the by-laws or any unanimous shareholder agreement.

R.S.O. 1980,
c. 466

Auditor's
report

(2) Except as provided in subsection 104 (1), the report of the auditor to the shareholders shall be open to inspection at the annual meeting by any shareholder.

(3) A corporation shall, not less than twenty-one days, in the case of an offering corporation, and ten days, in the case of a corporation that is not an offering corporation, before each annual meeting of shareholders or before the signing of a resolution under clause 104 (1) (b) in lieu of the annual meeting, send a copy of the documents referred to in this section to each shareholder, except to a shareholder who has informed the corporation in writing that he does not wish to receive a copy of those documents. R.S.O. 1980, c. 54, s. 165, *amended*.

Copy of documents to shareholders

154. The financial statements required under this Act shall be prepared as prescribed by regulation and in accordance with generally accepted accounting principles. *New*.

Preparation of financial statements

155. An offering corporation shall prepare and file with the Commission the financial statements required under Part XVII of the *Securities Act*. *New*.

Filing by offering corporation
R.S.O. 1980, c. 466

156.—(1) True copies of the latest financial statements of each subsidiary of a holding corporation shall be kept on hand by the holding corporation at its registered office and shall be open to examination by the shareholders of the holding corporation and their agents and legal representatives who may make extracts therefrom free of charge on request during the normal business hours of the holding corporation.

Financial statements of subsidiaries

(2) A corporation may, within fifteen days after a request to examine under subsection (1), apply to the court for an order barring the right of any person to so examine, and the court may, if satisfied that such examination would be detrimental to the corporation or a subsidiary body corporate, bar such right and make any further order it thinks fit. R.S.O. 1980, c. 54, s. 170 (3), *amended*.

Application to court

157.—(1) A corporation that is an offering corporation shall, and any other corporation may, have an audit committee composed of not fewer than three directors of the corporation, a majority of whom are not officers or employees of the corporation or any of its affiliates, to hold office until the next annual meeting of the shareholders.

Audit committee

(2) An audit committee shall review the financial statements of the corporation and shall report thereon to the board of directors of the corporation before such financial statements are approved under section 158.

Idem

(3) The auditor of a corporation is entitled to receive notice of every meeting of the audit committee and, at the expense of the corporation, to attend and be heard thereat, and, if so requested

Auditor may attend committee meetings

by a member of the audit committee, shall attend every meeting of the committee held during the term of office of the auditor.

Calling
meetings of
committee

(4) The auditor of a corporation or a member of the audit committee may call a meeting of the committee.

Right of
auditor to be
heard

(5) The auditor of a corporation shall be entitled to attend at the expense of the corporation and be heard at meetings of the board of directors of the corporation on matters relating to his duties as auditor. R.S.O. 1980, c. 54, s. 173, *amended*.

Approval by
directors

158.—(1) The financial statements shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign or by the director where there is only one, and the auditor's report, unless the corporation is exempt under section 148, shall be attached to or accompany the financial statements. R.S.O. 1980, c. 54, s. 174.

Publishing,
etc., copies of
financial
statements

(2) A corporation shall not issue, publish or circulate copies of the financial statements referred to in section 153 unless the financial statements are,

(a) approved and signed in accordance with subsection (1); and

(b) accompanied by the report of the auditor of the corporation, if any. *New*.

Interim
financial
statement
R.S.O. 1980,
c. 466

159.—(1) An offering corporation shall send to each shareholder a copy of an interim financial statement required to be filed under the *Securities Act* and the regulations thereunder.

Idem

(2) The interim financial statement required by subsection (1) shall be sent to each shareholder, within sixty days of the date to which it is made up, at his latest address as shown on the records of the corporation. R.S.O. 1980, c. 54, s. 176.

PART XIII

INVESTIGATION

Investigation

160.—(1) A security holder of a corporation and, in the case of an offering corporation, the Commission may apply, *ex parte* or upon such notice as the court may require, to the court for an order directing an investigation to be made of the corporation and any of its affiliates.

(2) Where, upon an application under subsection (1), it ^{Idem} appears to the court that,

- (a) the business of the corporation or any of its affiliates is or has been carried on with intent to defraud any person;
- (b) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to, or that unfairly disregards, the interests of a security holder;
- (c) the corporation or any of its affiliates was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or
- (d) persons concerned with the formation, business or affairs of the corporation or any of its affiliates have in connection therewith acted fraudulently or dishonestly,

the court may order an investigation to be made of the corporation and any of its affiliates.

(3) Where a security holder makes an application under sub- ^{Notice} section (1), he shall give the Director and, if the corporation is an offering corporation, the Commission, reasonable notice thereof and the Director and, if the corporation is an offering corporation, the Commission are entitled to appear and be heard in person or by counsel.

(4) An applicant under this section is not required to give ^{Security for costs not required} security for costs.

(5) An *ex parte* application under this section shall be heard ^{*Ex parte* application} *in camera*.

(6) No person may publish anything relating to *ex parte* ^{No publication without consent} proceedings under this section except with the authorization of the court or the written consent of the corporation being investigated. R.S.O. 1980, c. 54, s. 177, *part, amended*.

161.—(1) In connection with an investigation under this Part, ^{Matters that may be covered by court order} the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order to investigate;
- (b) an order appointing and fixing the remuneration of an inspector or replacing an inspector;

- (c) an order determining the notice to be given to any interested person, or dispensing with notice to any person;
- (d) an order authorizing an inspector to enter any premises in which the court is satisfied there might be relevant information, and to examine any thing and make copies of any document or record found on the premises;
- (e) an order requiring any person to produce documents or records to the inspector;
- (f) an order authorizing an inspector to conduct a hearing, administer oaths and examine any person upon oath, and prescribing rules for the conduct of the hearing;
- (g) an order requiring any person to attend a hearing conducted by an inspector and to give evidence upon oath;
- (h) an order giving directions to an inspector or any interested person on any matter arising in the investigation;
- (i) an order requiring an inspector to make an interim or final report to the court;
- (j) an order determining whether a report of an inspector should be made available for public inspection and ordering that copies be sent to any person the court designates;
- (k) an order requiring an inspector to discontinue an investigation;
- (l) an order requiring the corporation to pay the costs of the investigation.

Inspector's
report

(2) An inspector shall send to the Director and, where an offering corporation is involved, the Commission, a copy of every report made by the inspector under this Part which, subject to clause (1) (j), shall be placed on the corporation file for public inspection. R.S.O. 1980, c. 54, s. 177, *part, amended*.

Powers of
inspector

162.—(1) An inspector under this Part has the powers set out in the order appointing him.

(2) In addition to the powers set out in the order appointing ^{Idem} him, an inspector appointed to investigate a corporation may furnish to, or exchange information and otherwise co-operate with, any public official in Canada or elsewhere who is authorized to exercise investigatory powers and who is investigating, in respect of the corporation, any allegation of improper conduct that is the same as, or similar to, the conduct described in subsection 160 (2).

(3) An inspector shall produce upon request to an interested ^{Production of order} person a copy of any order made under subsection 161 (1). R.S.O. 1980, c. 54, s. 177 (1), *amended*.

163.—(1) Any interested person may apply to the court for ^{Hearing in camera} an order that a hearing conducted under this Part be heard *in camera* and for directions on any matter arising in the investigation.

(2) A person whose conduct is being investigated or who is ^{Right to counsel} being examined at a hearing conducted by an inspector under this Part has a right to be represented by counsel. *New*.

164. Any oral or written statement or report made by an ^{Privileged statements} inspector or any other person in an investigation under this Part has absolute privilege. *New*.

165. Nothing in this Part shall be construed to affect the ^{Solicitor-client privilege} privilege that exists in respect of communications between a solicitor and his client. *New*.

166. The Director may make inquiries of any person relating ^{Inquiries by Director} to compliance with this Act. *New*.

PART XIV

FUNDAMENTAL CHANGES

167.—(1) Subject to sections 169 and 170, a corporation may ^{Amendments} from time to time amend its articles to add, change or remove any provision that is permitted by this Act to be, or that is, set out in its articles, including without limiting the generality of the foregoing, to,

(a) change its name;

- (b) change the municipality or geographic township in which its registered office is located;
- (c) add, change or remove any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (d) add, change or remove any maximum number of shares that the corporation is authorized to issue or any maximum consideration for which any shares of the corporation are authorized to be issued;
- (e) create new classes of shares;
- (f) increase or reduce its stated capital which, for the purposes of the amendment, is deemed to be set out in the articles;
- (g) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrued dividends, in respect of all or any of its shares, whether issued or unissued;
- (h) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (i) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (j) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (k) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series;
- (l) revoke, diminish or enlarge any authority conferred under clauses (j) and (k);

- (m) subject to sections 120 and 125, increase or decrease the number, or minimum or maximum number, of directors; and
- (n) add, change or remove restrictions on the issue, transfer or ownership of shares of any class or series.

(2) The directors of a corporation may, if so authorized by a special resolution effecting an amendment under this section, revoke the resolution without further approval of the shareholders at any time prior to the endorsement by the Director of a certificate of amendment of articles in respect of such amendment. Revocation of resolution

(3) Notwithstanding subsection (1), where a corporation has a number name, the directors may amend its articles to change that name to a name that is not a number name. Change of number name

(4) An amendment under subsection (1) shall be authorized by a special resolution and an amendment under subsection (3) may be authorized by a resolution of the directors. Authorization

(5) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act, including a corporation to which *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, applies, may under this section amend its articles to change its name. R.S.O. 1980, c. 54, s. 180, *part, amended*. Special Act corporations excepted

168.—(1) The directors or any shareholder who is entitled to vote at an annual meeting of shareholders may, in accordance with section 99, make a proposal to amend the articles. Proposal to amend articles

(2) Notice of a meeting of shareholders at which a proposal to amend the articles is to be considered shall set out the proposed amendment and, where applicable, shall state that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an amendment. *New*. Idem

169.—(1) The holders of shares of a class or, subject to subsection (2), of a series are, unless the articles otherwise provide in the case of an amendment referred to in clause (a), (b) or (e), entitled to vote separately as a class or series upon a proposal to amend the articles to, Authorization for variation of rights of special shareholders

- (a) increase or decrease any maximum number of authorized shares of such class or series, or increase any maximum number of authorized shares of a class or series having rights or privileges equal or superior to the shares of such class or series;
- (b) effect an exchange, reclassification or cancellation of the shares of such class or series;

- (c) add to, remove or change the rights, privileges, restrictions or conditions attached to the shares of such class or series and, without limiting the generality of the foregoing,
 - (i) remove or change prejudicially rights to accrued dividends or rights to cumulative dividends,
 - (ii) add, remove or change prejudicially redemption rights or sinking fund provisions,
 - (iii) reduce or remove a dividend preference or a liquidation preference, or
 - (iv) add, remove or change prejudicially conversion privileges, options, voting, transfer or pre-emptive rights, or rights to acquire securities of a corporation;
- (d) add to the rights or privileges of any class or series of shares having rights or privileges equal or superior to the shares of such class or series;
- (e) create a new class or series of shares equal or superior to the shares of such class or series, except in the case of a series under section 25;
- (f) make any class or series of shares having rights or privileges inferior to the shares of such class or series equal or superior to the shares of such class or series;
- (g) effect an exchange or create a right of exchange of the shares of another class or series into the shares of such class or series; or
- (h) add, remove or change restrictions on the issue, transfer or ownership of the shares of such class or series.

Idem (2) The holders of a series of shares of a class are entitled to vote separately as a series under subsection (1) only if such series is affected by an amendment in a manner different from other shares of the same class.

Idem (3) Subsection (1) applies whether or not shares of a class or series otherwise carry the right to vote.

Idem (4) A proposed amendment to the articles referred to in subsection (1) is adopted when the shareholders have approved the amendment by a special resolution of the holders of the shares of each class or series entitled to vote thereon. R.S.O. 1980, c. 54, s. 180, *part, amended*.

(5) Subsection (1) does not apply in respect of a proposal to amend the articles to add a right or privilege for a holder to convert shares of a class or series into shares of another class or series that is subject to restrictions described in clause 42 (2) (d) but is otherwise equal to the class or series first mentioned. Exception

(6) For the purpose of clause (1) (e), a new class of shares, the issue, transfer or ownership of which is to be restricted by an amendment to the articles for the purpose of clause 42 (2) (d) that is otherwise equal to an existing class of shares shall be deemed not to be equal or superior to the existing class of shares. *New*. Deeming provision

170.—(1) Articles of amendment in prescribed form shall be sent to the Director. Articles of amendment sent to Director

(2) If an amendment effects or requires a reduction of stated capital, subsections 34 (4) and (5) apply. Application of s. 34 (4, 5)

(3) No corporation shall change its name if, Change of name

(a) the corporation is unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets is less than the aggregate of its liabilities. R.S.O. 1980, c. 54, s. 181, *amended*.

171. Upon receipt of articles of amendment, the Director shall endorse thereon in accordance with section 272 a certificate of amendment. R.S.O. 1980, c. 54, s. 182, *amended*. Certificate of amendment

172.—(1) The directors may at any time restate the articles of incorporation as amended. Restated articles of incorporation

(2) Restated articles of incorporation in prescribed form shall be sent to the Director. Idem

(3) Upon receipt of restated articles of incorporation, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the restated certificate of incorporation. Restated certificate of incorporation

(4) Restated articles of incorporation supersede the original articles of incorporation and all amendments thereto. R.S.O. 1980, c. 54, s. 183, *amended*. Idem

Amalgamation **173.** Two or more corporations, including holding or subsidiary corporations, may amalgamate and continue as one corporation. R.S.O. 1980, c. 54, s. 187 (1).

Amalgamation agreement **174.**—(1) Where corporations propose to amalgamate, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation and, in particular, setting out,

- (a) the provisions that are required to be included in articles of incorporation under section 5;
- (b) subject to subsection (2), the basis upon which and manner in which the holders of the issued shares of each amalgamating corporation are to receive,
 - (i) securities of the amalgamated corporation,
 - (ii) money, or
 - (iii) securities of any body corporate other than the amalgamated corporation,
 in the amalgamation;
- (c) the manner of payment of money instead of the issue of fractional shares of the amalgamated corporation or of any other body corporate the securities of which are to be received in the amalgamation;
- (d) whether the by-laws of the amalgamated corporation are to be those of one of the amalgamating corporations and the address where a copy of the proposed by-laws may be examined; and
- (e) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation. R.S.O. 1980, c. 54, s. 187 (2), *amended*.

Shares of amalgamating corporation held by another (2) Where shares of one of the amalgamating corporations are held by or on behalf of another of the amalgamating corporations, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into

shares of the amalgamated corporation. R.S.O. 1980, c. 54, s. 187 (3).

175.—(1) The directors of each amalgamating corporation shall submit the amalgamation agreement for approval at a meeting of the shareholders of the amalgamating corporation of which they are directors and, subject to subsection (3), of the holders of shares of each class or series entitled to vote thereon. Submission of amalgamation agreement

(2) The notice of the meeting of shareholders of each amalgamating corporation shall include or be accompanied by, Notice of meeting

- (a) a copy or summary of the amalgamation agreement; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an amalgamation.

(3) The holders of a class or series of shares of an amalgamating corporation, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect of an amalgamation if the amalgamation agreement contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 169. Voting by class, etc.

(4) An amalgamation agreement is adopted when the shareholders of each amalgamating corporation have approved of the amalgamation by a special resolution of the holders of the shares of each class or series entitled to vote thereon. Adoption of amalgamation agreement

(5) An amalgamation agreement may provide that at any time before the endorsement of a certificate of amalgamation the agreement may be terminated by the directors of an amalgamating corporation, notwithstanding approval of the agreement by the shareholders of all or any of the amalgamating corporations. Termination of agreement
New.

176.—(1) A holding corporation and one or more of its wholly-owned subsidiary corporations may amalgamate and continue as one corporation without complying with sections 174 and 175 if, Amalgamation of holding corporation and its subsidiary

- (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and
- (b) the resolutions provide that,
 - (i) the shares of each amalgamating subsidiary corporation shall be cancelled without any repayment of capital in respect thereof,

- (ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating holding corporation, and
- (iii) no securities shall be issued and no assets shall be distributed by the amalgamated corporation in connection with the amalgamation.

Amalgamation
of
subsidiaries

(2) Two or more wholly-owned subsidiary corporations of the same holding body corporate may amalgamate and continue as one corporation without complying with sections 174 and 175 if,

(a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and

(b) the resolutions provide that,

(i) the shares of all but one of the amalgamating subsidiary corporations shall be cancelled without any repayment of capital in respect thereof,

(ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating subsidiary corporation whose shares are not cancelled, and

(iii) the stated capital of the amalgamating subsidiary corporations whose shares are cancelled shall be added to the stated capital of the amalgamating subsidiary corporation whose shares are not cancelled. *New.*

Articles of
amalgamation
to be sent to
Director

177.—(1) Subject to subsection 175 (5), after an amalgamation has been adopted under section 175 or approved under section 176, articles of amalgamation in prescribed form shall be sent to the Director.

Director's
statement

(2) The articles of amalgamation shall have attached thereto a statement of a director or an officer of each amalgamating corporation stating that,

(a) there are reasonable grounds for believing that,

(i) each amalgamating corporation is and the amalgamated corporation will be able to pay its liabilities as they become due, and

- (ii) the realizable value of the amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital of all classes;

(b) there are reasonable grounds for believing that,

- (i) no creditor will be prejudiced by the amalgamation, or

- (ii) adequate notice has been given to all known creditors of the amalgamating corporations;

(c) the grounds upon which the objections of all creditors who have notified the corporation that they object to the amalgamation, setting forth with reasonable particularity the grounds for such objections, are either frivolous or vexatious; and

(d) the corporation has given notice to each person who has, in the manner referred to in clause (c), notified the corporation of his objection to the amalgamation, that,

- (i) the grounds upon which his objection is based are considered to be frivolous or vexatious, and

- (ii) a creditor of a corporation who objects to an amalgamation has the status of a complainant under section 247.

(3) For the purposes of subsection (2), adequate notice is given Notice
if,

(a) a notice in writing is sent to each known creditor having a claim against the corporation that exceeds \$2,500, at the last address of the creditor known to the corporation;

(b) a notice is published once in a newspaper published or distributed in the place where the corporation has its registered office; and

(c) each notice states that the corporation intends to amalgamate with one or more specified corporations in accordance with this Act unless a creditor of the corporation objects to the amalgamation within thirty days from the date of the notice.

(4) Upon receipt of articles of amalgamation, the Director shall Certificate of
amalgamation
endorse thereon in accordance with section 272 a certificate which

shall constitute the certificate of amalgamation. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Effect of
certificate

178. Upon the articles of amalgamation becoming effective,

- (a) the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions prescribed in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (c) a conviction against, or ruling, order or judgment in favour or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (d) the articles of amalgamation are deemed to be the articles of incorporation of the amalgamated corporation and, except for the purposes of subsection 117 (1), the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated corporation;
- (e) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against an amalgamating corporation before the amalgamation has become effective. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Articles of
continuance

179.—(1) A body corporate incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Director to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Director for a certificate of continuance. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Idem

(2) Articles of continuance in prescribed form shall be sent to the Director together with any other prescribed documents.

Amendments
to original
articles

(3) The articles of continuance shall make any amendments to the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which the body corporate was incorporated and any amendments thereto necessary to make the articles of continuance conform to the laws of Ontario, and may

make such other amendments as would be permitted under this Act if the body corporate were incorporated under the laws of Ontario, provided that at least the same shareholder approval has been obtained for such other amendments as would have been required under this Part if the body corporate were incorporated under the laws of Ontario. R.S.O. 1980, c. 54, s. 189 (1), *part, amended*.

(4) Upon receipt of articles of continuance and any other prescribed documents, the Director may, on such terms and subject to such limitations and conditions as he considers proper, endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of continuance.

Endorsement
of certificate
of continuance

(5) Upon the articles of continuance becoming effective,

Effect of
certificate

- (a) the body corporate becomes a corporation to which this Act applies as if it had been incorporated under this Act;
- (b) the articles of continuance are deemed to be the articles of incorporation of the continued corporation; and
- (c) except for the purposes of subsection 117 (1), the certificate of continuance is deemed to be the certificate of incorporation of the continued corporation.

(6) The Director shall send a copy of the certificate of continuance to the appropriate official or public body in the jurisdiction in which continuance under the Act was authorized. R.S.O. 1980, c. 54, s. 189, *part, amended*.

Copy of certificate of continuance

(7) When a body corporate is continued as a corporation under this Act,

Rights, liabilities, etc., preserved

- (a) the corporation possesses all the property, rights, privileges and franchises and is subject to all the liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of the body corporate;
- (b) a conviction against, or ruling, order or judgment in favour of or against, the body corporate may be enforced by or against the corporation; and
- (c) the corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against the body corporate. R.S.O. 1980, c. 54, s. 191, *amended*.

Shares issued
before body
corporate con-
tinued under
this Act

(8) Subject to subsection 56 (3), a share of a body corporate issued before the body corporate was continued under this Act shall be deemed to have been issued in compliance with this Act and with the provisions of the articles of continuance, irrespective that the share is not fully paid and of any designation, rights, privileges, restrictions or conditions set out on or referred to in the certificate representing the share, and continuance under this section does not deprive a holder of any right or privilege that he claims under, or relieve him of any liability in respect of, an issued share. *New.*

Transfer of
Ontario cor-
porations

180.—(1) Subject to subsection (9), a corporation may, if it is authorized by the shareholders and the Director in accordance with this section, apply to the appropriate official or public body of another jurisdiction requesting that the corporation be continued as if it had been incorporated under the laws of that other jurisdiction.

Notice to
shareholders

(2) The notice of the meeting of shareholders shall include or be accompanied by a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an authorization under clause (3) (a).

Application for
continuance

(3) An application for continuance becomes authorized,

- (a) by the shareholders when the shareholders voting thereon have approved of the continuance by a special resolution; and
- (b) by the Director when, following receipt from the corporation of an application in prescribed form, he endorses an authorization on the application.

Authorization
by Director

(4) The Director may endorse the authorization if he is satisfied that the application is not prohibited by subsection (9).

Abandoning
application

(5) The directors of a corporation may, if authorized by the shareholders, abandon an application without further approval of the shareholders.

Time limit
to Director's
authorization

(6) The authorization of the Director for an application for continuance expires ninety days after the date of endorsement of the authorization unless, within the ninety day period, the corporation is continued under the laws of the other jurisdiction.

Filing
instrument
of
continuance

(7) The corporation shall file with the Director a copy of the instrument of continuance issued to it by the other jurisdiction within sixty days after the date of issuance.

(8) This Act ceases to apply to the corporation on the date upon which the corporation is continued under the laws of the other jurisdiction. Effective date

(9) A corporation shall not apply under subsection (1) to be continued as a body corporate under the laws of another jurisdiction unless those laws provide in effect that, Continuance in outside jurisdiction

- (a) the property of the corporation continues to be the property of the body corporate;
- (b) the body corporate continues to be liable for the obligations of the corporation;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the corporation may be continued to be prosecuted by or against the body corporate; and
- (e) a conviction against the corporation may be enforced against the body corporate or a ruling, order or judgment in favour of or against the corporation may be enforced by or against the body corporate. R.S.O. 1980, c. 54, s. 190, *amended*.

181.—(1) In this section, “arrangement”, with respect to a corporation, includes, Arrangement

- (a) a reorganization of the shares of any class or series of the corporation or of the stated capital of any such class or series;
- (b) the addition to or removal from the articles of the corporation of any provision that is permitted by this Act to be, or that is, set out in the articles or the change of any such provision;
- (c) an amalgamation of the corporation with another corporation;
- (d) an amalgamation of a body corporate with a corporation that results in an amalgamated corporation subject to this Act;
- (e) a transfer of all or substantially all the property of the corporation to another body corporate in exchange for securities, money or other property of the body corporate;

(f) an exchange of securities of the corporation held by security holders for other securities, money or other property of the corporation or securities, money or other property of another body corporate that is not a take-over bid as defined in Part XIX of the *Securities Act*;

R.S.O. 1980,
c. 466

(g) a liquidation or dissolution of the corporation;

(h) any other reorganization or scheme involving the business or affairs of the corporation or of any or all of the holders of its securities or of any options or rights to acquire any of its securities that is, at law, an arrangement; and

(i) any combination of the foregoing. R.S.O. 1980, c. 54, s. 184 (1), *amended*.

Scheme of
arrangement

(2) A corporation proposing an arrangement shall prepare, for the approval of the shareholders, a statement thereof setting out in detail what is proposed to be done and the manner in which it is proposed to be done.

Adoption of
arrangement

(3) Subject to any order of the court made under subsection (5), where an arrangement has been approved by shareholders of a corporation and by holders of shares of each class or series entitled to vote separately thereon, in each case by special resolution, the arrangement shall have been adopted by the shareholders of the corporation and the corporation may apply to the court for an order approving the arrangement.

Separate
votes

(4) The holders of shares of a class or series of shares of a corporation are not entitled to vote separately as a class or series in respect of an arrangement unless the statement of the arrangement referred to in subsection (2) contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 169 and, if the statement of the arrangement contains such a provision, such holders are entitled to vote separately on the arrangement whether or not such shares otherwise carry the right to vote.

Application
to court

(5) The corporation may, at any time, apply to the court for advice and directions in connection with an arrangement or proposed arrangement and the court may make such order as it considers appropriate, including, without limiting the generality of the foregoing,

(a) an order determining the notice to be given to any interested person or dispensing with notice to any person;

- (b) an order requiring a corporation to call, hold and conduct an additional meeting of, or to hold a separate vote of, all or any particular group of holders of any securities or warrants of the corporation in such manner as the court directs;
- (c) an order permitting a shareholder to dissent under section 184 if the arrangement is adopted;
- (d) an order appointing counsel, at the expense of the corporation, to represent the interests of shareholders;
- (e) an order that the arrangement or proposed arrangement shall be deemed not to have been adopted by the shareholders of the corporation unless it has been approved by a specified majority that is greater than two-thirds of the votes cast at a meeting of the holders, or any particular group of holders, of securities or warrants of the corporation; and
- (f) an order approving the arrangement as proposed by the corporation or as amended in any manner the court may direct, subject to compliance with such terms and conditions, if any, as the court thinks fit,

and to the extent that any such order is inconsistent with a provision of this section such order shall prevail.

(6) Where a reorganization or scheme is proposed as an arrangement and involves an amendment of the articles of a corporation or the taking of any other steps that could be made or taken under any other provision of this Act, the procedure provided for in this section, and not the procedure provided for in such other provision, applies to such reorganization or scheme. Procedure

(7) Where an amendment of articles is proposed to be made under section 167 that could be made under this section, the procedure provided for in section 167 and not the procedure provided for in this section applies in respect of the amendment. Idem

(8) An applicant under this section shall give the Director notice of the application, and the Director is entitled to appear and be heard in person or by counsel. R.S.O. 1980, c. 54, s. 185 (2-8), *amended*. Director entitled to be heard

182.—(1) After an order referred to in clause 181 (5) (f) has been made, articles of arrangement in prescribed form shall be sent to the Director. Articles of arrangement sent to Director

Certificate of
arrangement

(2) Upon receipt of articles of arrangement the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of arrangement. *New.*

Borrowing
powers

183.—(1) Unless the articles or by-laws of or a unanimous shareholder agreement otherwise provide, the articles of a corporation shall be deemed to state that the directors of a corporation may, without authorization of the shareholders,

- (a) borrow money upon the credit of the corporation;
- (b) issue, reissue, sell or pledge debt obligations of the corporation;
- (c) subject to section 20, give a guarantee on behalf of the corporation to secure performance of an obligation of any person; and
- (d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any obligation of the corporation.

Delegation of
powers

(2) Unless the articles or by-laws of or a unanimous shareholder agreement relating to a corporation otherwise provide, the directors may by resolution delegate any or all of the powers referred to in subsection (1) to a director, a committee of directors or an officer. R.S.O. 1980, c. 54, s. 51, *amended*.

Sale, etc.,
requires
approval of
shareholders

(3) A sale, lease or exchange of all or substantially all the property of a corporation other than in the ordinary course of business of the corporation requires the approval of the shareholders in accordance with subsections (4) to (8).

Notice

(4) The notice of a meeting of shareholders to approve a transaction referred to in subsection (3) shall include or be accompanied by,

- (a) a copy or summary of the agreement of sale, lease or exchange; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate a sale, lease or exchange referred to in subsection (3).

(5) At the meeting referred to in subsection (4), the shareholders may authorize the sale, lease or exchange and may fix or authorize the directors to fix any of the terms and conditions thereof. Shareholders may authorize sale, etc.

(6) If a sale, lease or exchange by a corporation referred to in subsection (3) would affect a particular class or series of shares of the corporation in a manner different from the shares of another class or series of the corporation entitled to vote on the sale, lease or exchange at the meeting referred to in subsection (4), the holders of such first mentioned class or series of shares, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect to such sale, lease or exchange. Right to vote separately

(7) The approval of a sale, lease or exchange referred to in subsection (3) is effective when the shareholders have approved the sale, lease or exchange by a special resolution of the holders of the shares of each class or series entitled to vote thereon. When approval effective

(8) The directors of a corporation may, if authorized by the shareholders approving a proposed sale, lease or exchange, and subject to the rights of third parties, abandon the sale, lease or exchange without further approval of the shareholders. *New.* Approval by directors

184.—(1) Subject to subsection (3) and to sections 185 and 247, if a corporation resolves to, Rights of dissenting shareholders

- (a) amend its articles under section 167 to add, remove or change restrictions on the issue, transfer or ownership of shares of a class or series of the shares of the corporation;
- (b) amend its articles under section 167 to add, remove or change any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (c) amalgamate with another corporation under sections 174 and 175;
- (d) be continued under the laws of another jurisdiction under section 180; or
- (e) sell, lease or exchange all or substantially all its property under subsection 183 (3),

a holder of shares of any class or series entitled to vote on the resolution may dissent.



(2) If a corporation resolves to amend its articles in a manner referred to in subsection 169 (1), a holder of shares of any class or series entitled to vote on the amendment under section 167 or 169 may dissent, except in respect of an amendment referred to in, Idem

(a) clause 169 (1) (a), (b) or (e) where the articles provide that the holders of shares of such class or series are not entitled to dissent; or

(b) subsection 169 (5) or (6).

Exception

(3) A shareholder of a corporation incorporated before this Act comes into force is not entitled to dissent under this section in respect of an amendment of the articles of the corporation to the extent that the amendment,

(a) amends the express terms of any provision of the articles of the corporation to conform to the terms of the provision as deemed to be amended by section 275; or

(b) deletes from the articles of the corporation all of the objects of the corporation set out in its articles, provided that the deletion is made within three years after this Act comes into force.

Shareholder's
right to be
paid fair
value

(4) In addition to any other right he may have, but subject to subsection (28), a shareholder who complies with this section is entitled, when the action approved by the resolution from which he dissents becomes effective, to be paid by the corporation the fair value of the shares held by him in respect of which he dissents, determined as of the close of business on the day before the resolution was adopted.

No partial
dissent

(5) A dissenting shareholder may only claim under this section with respect to all the shares of a class held by him on behalf of any one beneficial owner and registered in the name of the dissenting shareholder.

Objection

(6) A dissenting shareholder shall send to the corporation, at or before any meeting of shareholders at which a resolution referred to in subsection (1) or (2) is to be voted on, a written objection to the resolution, unless the corporation did not give notice to the shareholder of the purpose of the meeting or of his right to dissent.

Notice of
adoption of
resolution

(7) The corporation shall, within ten days after the shareholders adopt the resolution, send to each shareholder who has filed the objection referred to in subsection (6) notice that the resolution has been adopted, but such notice is not required to be sent to any shareholder who voted for the resolution or who has withdrawn his objection.

Demand for
payment of fair
value

(8) A dissenting shareholder entitled to receive notice under subsection (7) shall, within twenty days after he receives such

notice, or, if he does not receive such notice, within twenty days after he learns that the resolution has been adopted, send to the corporation a written notice containing,

- (a) his name and address;
- (b) the number and class of shares in respect of which he dissents; and
- (c) a demand for payment of the fair value of such shares.

(9) Not later than the thirtieth day after the sending of a notice under subsection (8), a dissenting shareholder shall send the certificates representing the shares in respect of which he dissents to the corporation or its transfer agent. Certificates to be sent in

(10) A dissenting shareholder who fails to comply with subsections (6), (8) and (9) has no right to make a claim under this section. Idem

(11) A corporation or its transfer agent shall endorse on any share certificate received under subsection (9) a notice that the holder is a dissenting shareholder under this section and shall return forthwith the share certificates to the dissenting shareholder. Endorsement on certificate

(12) On sending a notice under subsection (8), a dissenting shareholder ceases to have any rights as a shareholder other than the right to be paid the fair value of his shares as determined under this section except where, Rights of dissenting shareholder

- (a) the dissenting shareholder withdraws his notice before the corporation makes an offer under subsection (13);
- (b) the corporation fails to make an offer in accordance with subsection (13) and the dissenting shareholder withdraws his notice; or
- (c) the directors revoke a resolution to amend the articles under subsection 167 (2), terminate an amalgamation agreement under subsection 175 (5) or an application for continuance under subsection 180 (5), or abandon a sale, lease or exchange under subsection 183 (8),

in which case his rights as the holder of the shares in respect of which he has dissented are reinstated as of the date he sent the notice referred to in subsection (8), and he is entitled, upon presentation and surrender to the corporation or its transfer agent of any certificate representing the shares that has been endorsed in

accordance with subsection (11), to be issued a new certificate representing the same number of shares as the certificate so presented, without payment of any fee.

Offer to pay

(13) A corporation shall, not later than seven days after the later of the day on which the action approved by the resolution is effective or the day the corporation received the notice referred to in subsection (8), send to each dissenting shareholder who has sent such notice,

(a) a written offer to pay for his shares in an amount considered by the directors of the corporation to be the fair value thereof, accompanied by a statement showing how the fair value was determined; or

(b) if subsection (28) applies, a notification that it is unable lawfully to pay dissenting shareholders for their shares.

Idem

(14) Every offer made under subsection (13) for shares of the same class or series shall be on the same terms.

Idem

(15) Subject to subsection (28), a corporation shall pay for the shares of a dissenting shareholder within ten days after an offer made under subsection (13) has been accepted, but any such offer lapses if the corporation does not receive an acceptance thereof within thirty days after the offer has been made.

Application to
court to fix fair
value

(16) Where a corporation fails to make an offer under subsection (13) or if a dissenting shareholder fails to accept an offer, the corporation may, within fifty days after the action approved by the resolution is effective or within such further period as the court may allow, apply to the court to fix a fair value for the shares of any dissenting shareholder.

Idem

(17) If a corporation fails to apply to the court under subsection (16), a dissenting shareholder may apply to the court for the same purpose within a further period of twenty days or within such further period as the court may allow.

Idem

(18) A dissenting shareholder is not required to give security for costs in an application made under subsection (16) or (17).

Costs

(19) If a corporation fails to comply with subsection (13), then the costs of a shareholder application under subsection (17) are to be borne by the corporation unless the court otherwise orders.

Notice to
shareholders

(20) Before making application to the court under subsection (16) or not later than seven days after receiving notice of an application to the court under subsection (17), as the case may

be, a corporation shall give notice to each dissenting shareholder who, at the date upon which the notice is given,

- (a) has sent to the corporation the notice referred to in subsection (8); and
- (b) has not accepted an offer made by the corporation under subsection (13), if such an offer was made,

of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel, and a similar notice shall be given to each dissenting shareholder who, after the date of such first mentioned notice and before termination of the proceedings commenced by the application, satisfies the conditions set out in clauses (a) and (b) within three days after he satisfies such conditions.

(21) All dissenting shareholders who satisfy the conditions set out in clauses (20) (a) and (b) shall be deemed to be joined as parties to an application under subsection (16) or (17) on the later of the date upon which the application is brought and the date upon which they satisfy the conditions, and shall be bound by the decision rendered by the court in the proceedings commenced by the application. Parties joined

(22) Upon an application to the court under subsection (16) or (17), the court may determine whether any other person is a dissenting shareholder who should be joined as a party, and the court shall fix a fair value for the shares of all dissenting shareholders. Idem

(23) The court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the shares of the dissenting shareholders. Appraisers

(24) The final order of the court in the proceedings commenced by an application under subsection (16) or (17) shall be rendered against the corporation and in favour of each dissenting shareholder who, whether before or after the date of the order, complies with the conditions set out in clauses (20) (a) and (b). Final order

(25) The court may in its discretion allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective until the date of payment. Interest

(26) Where subsection (28) applies, the corporation shall, within ten days after the pronouncement of an order under subsection (24), notify each dissenting shareholder that it is unable lawfully to pay dissenting shareholders for their shares. Where corporation unable to pay

- Idem (27) Where subsection (28) applies, a dissenting shareholder, by written notice sent to the corporation within thirty days after receiving a notice under subsection (26), may,
- (a) withdraw his notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the shareholder is reinstated to his full rights as a shareholder; or
 - (b) retain a status as a claimant against the corporation, to be paid as soon as the corporation is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the corporation but in priority to its shareholders.
- Idem (28) A corporation shall not make a payment to a dissenting shareholder under this section if there are reasonable grounds for believing that,
- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
 - (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.
- Court order (29) Upon application by a corporation that proposes to take any of the actions referred to in subsection (1) or (2), the court may, if satisfied that the proposed action is not in all the circumstances one that should give rise to the rights arising under subsection (4), by order declare that those rights will not arise upon the taking of the proposed action, and the order may be subject to compliance with such terms and conditions as the court thinks fit and notice of any such application and a copy of any order made by the court upon such application shall be served upon the Director and, if the corporation is an offering corporation, upon the Commission.
- Director may appear (30) The Director and, in the case of an offering corporation, the Commission may appoint counsel to assist the court upon the hearing of an application under subsection (29). R.S.O. 1980, c. 54, s. 98, *amended*.
- Reorganization R.S.C. 1970, c. B-4 **185.**—(1) In this section, “reorganization” means a court order made under section 247 or an order made under the *Bankruptcy Act* (Canada) approving a proposal.
- Articles amended (2) If a corporation is subject to a reorganization, its articles may be amended by the order to effect any change that might lawfully be made by an amendment under section 167.
- Auxiliary powers of court (3) Where a reorganization is made, the court making the order may also,

(a) authorize the issue of debt obligations of the corporation, whether or not convertible into shares of any class or having attached any rights or options to acquire shares of any class, and fix the terms thereof; and

(b) appoint directors in place of or in addition to all or any of the directors then in office.

(4) After a reorganization has been made, articles of reorganization in prescribed form shall be sent to the Director. Articles of reorganization

(5) Upon receipt of articles of reorganization, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of amendment and the articles are amended accordingly. Certificate

(6) A shareholder is not entitled to dissent under section 184 if an amendment to the articles is effected under this section. No dissent
New.

PART XV

COMPULSORY ACQUISITIONS

186.—(1) This Part applies only to an offering corporation. Application

(2) In this Part, Interpretation

(a) “dissenting offeree” means a person to whom a take-over bid or issuer bid is made who does not accept the take-over bid or issuer bid and includes a person who subsequently acquires a security that is the subject of the bid;

(b) “equity security” means any security other than a debt obligation of a corporation;

(c) “issuer bid” means an offer made by a corporation to security holders to purchase, redeem or otherwise acquire any or all of a class of the securities of the corporation, other than where,

(i) the securities to be purchased, redeemed or otherwise acquired are debt securities that are not convertible into equity securities,

(ii) the securities are to be purchased, redeemed or otherwise acquired in accordance with the terms and conditions thereof or otherwise agreed to at

the time they were issued or subsequently varied by amendment of the documents setting out those terms and conditions, or are acquired to meet sinking fund requirements or from an employee or a former employee of the issuer or of an affiliate, or

- (iii) the purchases, redemptions or other acquisitions to be made are required by the instrument creating or governing the class of securities or by this Act;
- (d) “offeree” means a person to whom a take-over bid or an issuer bid is made;
- (e) “offeree corporation” means a corporation whose securities are the subject of a take-over bid;
- (f) “offeror” means a person, other than an agent, who makes a take-over bid or an issuer bid;
- (g) “take-over bid” means an offer made to security holders of an offeree corporation to purchase directly or indirectly voting securities of the offeree corporation, where the voting securities that are the subject of the offer to purchase, the acceptance of the offer to sell or the combination thereof, as the case may be, together with the securities currently owned by the offeror, its affiliates and associates will carry, in the aggregate, 10 per cent or more of the voting rights attached to the voting securities of the offeree corporation that would be outstanding on exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities of the offeree corporation;
- (h) “voting security” includes,
 - (i) a security currently convertible into a voting security or into another security that is convertible into a voting security,
 - (ii) a currently exercisable option or right to acquire a voting security or another security that is convertible into a voting security, or
 - (iii) a security carrying an option or right referred to in subclause (ii). *New.*

Take-over
or issuer
bid

187.—(1) If within 120 days after the date of a take-over bid or an issuer bid, the bid is accepted by the holders of not less than

90 per cent of the securities of any class of securities to which the bid relates, other than securities held at the date of the bid by or on behalf of the offeror, or an affiliate or associate of the offeror, the offeror is entitled, upon complying with this section, to acquire the securities held by dissenting offerees.

(2) An offeror may acquire the securities of any class to which the bid relates that are held by a dissenting offeree by sending on or before the earlier of the sixtieth day following the termination of the bid and the one hundred and eightieth day following the date of the bid an offeror's notice to each dissenting offeree and to the Director stating in substance that,

Shares of
dissenting
offeree

- (a) offerees holding more than 90 per cent of the securities to which the bid relates other than securities held at the date of the bid by or on behalf of the offeror or an affiliate or associate of the offeror have accepted the bid;
- (b) the offeror is bound to take up and pay for or has taken up and paid for the securities of the offerees who accepted the bid;
- (c) a dissenting offeree is required to elect,
 - (i) to transfer his securities to the offeror on the terms on which the offeror acquired the securities of the offerees who accepted the bid, or
 - (ii) to demand payment of the fair value of his securities in accordance with subsections (13) to (21) by notifying the offeror within twenty days after receipt of the offeror's notice;
- (d) a dissenting offeree who does not notify the offeror in accordance with subclause (c) (ii) is deemed to have elected to transfer his securities to the offeror on the same terms that the offeror acquired the securities from the offerees who accepted the bid; and
- (e) a dissenting offeree must send the certificates representing his securities to which the bid relates to the offeree corporation or, in the case of an issuer bid, to the offeror within twenty days after he receives the offeror's notice.

(3) In the case of,

Notice

- (a) a take-over bid, concurrently with sending the offeror's notice under subsection (2), the offeror shall send or deliver to the offeree corporation a notice of adverse claim in accordance with section 88 with respect to each share held by a dissenting offeree; or
- (b) an issuer bid, the offeror shall be deemed to have notice of an adverse claim for the purpose of section 88 with respect to each share held by a dissenting offeree.

Sending in
share
certificates

(4) A dissenting offeree to whom an offeror's notice is sent under subsection (2) shall, within twenty days after he receives that notice,

- (a) send the certificates representing his securities to which the take-over bid relates to the offeree corporation; or
- (b) send the certificates representing his securities to which the issuer bid relates to the offeror.

Payment by
offeror

(5) Within twenty days after the offeror sends an offeror's notice under subsection (2), the offeror shall pay or transfer to the offeree corporation the amount of money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the take-over bid under subclause (2) (c) (i).

Trust funds

(6) An offeree corporation is deemed to hold in trust for dissenting offerees the money or other consideration it receives under subsection (5), and the offeree corporation shall deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation and shall place the other consideration in the custody of a bank or other such body corporate.

Idem

(7) The offeror making an issuer bid is deemed to hold in trust for dissenting offerees the money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the issuer bid under subclause (2) (c) (i) and, within twenty days after the issuer sends an offeror's notice under subsection (2), the issuer shall deposit any such money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation and shall place the other consideration in the custody of a bank or such other body corporate within twenty days after the offeror sends an offeror's notice under subsection (2).

Notice of
compliance

(8) Within ten days after the offeror complies with subsection (5) or subsection (7), as the case may be, the offeror shall give notice of the date of such compliance to all dissenting offerees.

Application
to court

(9) At any time prior to the thirtieth day following the day upon which the offeror's notice referred to in subsection (2) is sent to dissenting offerees, a dissenting offeree who has demanded payment of the fair value of his securities in accordance with subclause (2) (c) (ii) may apply to the court for an order requiring the person who has sent the offeror's notice to provide, in such form as the court considers appropriate, such additional

security for payment to dissenting offerees of the fair value of their securities as the court may determine to be necessary, pending the determination of such fair value.

(10) The securities of all dissenting offerees shall be deemed to have been acquired by the offeror, Where shares deemed acquired

- (a) where an application under subsection (9) has not been made within the time set out in subsection (9), upon the expiration of that time; or
- (b) where an application has been made under subsection (9), upon compliance with the order made in respect of the application.

(11) Within ten days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made a take-over bid, the offeree corporation shall, Duties of offeree corporation

- (a) issue to the offeror a security certificate in respect of the securities that were held by dissenting offerees;
- (b) send to each dissenting offeree who elects to accept the take-over bid terms under subclause (2) (c) (i) and who sends his security certificates as required under clause (4) (a), the money or other consideration to which he is entitled; and
- (c) send to each dissenting offeree who has not sent his security certificates as required under clause (4) (a), notice stating in substance that,
 - (i) the certificates representing his securities have been cancelled,
 - (ii) the offeree corporation or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his securities, and
 - (iii) the offeree corporation will, subject to subsections (13) to (21), send that money or other consideration to him forthwith after receiving his securities.

(12) Within ten days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made an issuer bid, the offeror shall, Payment by offeror

- (a) send to each dissenting offeree who elects to accept the issuer bid terms under subclause (2) (c) (i) and who sends his security certificates as required under clause (4) (b), the money or other consideration to which he is entitled; and
- (b) send to each dissenting offeree who has not sent his security certificates as required under clause (4) (b) a notice stating in substance that,
 - (i) the certificates representing his securities have been cancelled,
 - (ii) the offeror or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his securities, and
 - (iii) the offeror will, subject to subsections (13) to (21), send that money or other consideration to him forthwith after receiving his securities.

Application to
fix fair value

(13) If a dissenting offeree has elected to demand payment of the fair value of his securities under subclause (2) (c) (ii), the offeror may, in the case of a take-over bid, within twenty days after it has complied with subsection (5) or, in the case of an issuer bid, within twenty days after it has complied with subsection (7), apply to the court to fix the fair value of the securities of that dissenting offeree.

Idem

(14) If an offeror fails to apply to the court under subsection (13), a dissenting offeree may apply to the court for the same purpose within a further period of twenty days.

Where no
application

(15) If no application is made to the court under subsection (13) or (14) within the periods set out in those subsections, a dissenting offeree is deemed to have elected to transfer his securities to the offeror on the same terms that the offeror acquired the securities from offerees who accepted the take-over or issuer bid and, provided that the dissenting offeree has complied with subsection (4), the issuer or the offeree corporation, as the case may be, shall pay or transfer to the dissenting offeree the money or other consideration to which he is entitled.

Security for
costs not
required

(16) A dissenting offeree is not required to give security for costs in an application made under subsection (13) or (14).

Parties

(17) Upon an application under subsection (13) or (14),

- (a) all dissenting offerees referred to in subclause (2) (c) (ii) whose securities have not been acquired by the offeror

shall be joined as parties and are bound by the decision of the court; and

- (b) the offeror shall notify each such dissenting offeree of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel.

(18) Upon an application to the court under subsection (13) or (14), the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the securities of all dissenting offerees. Idem

(19) The court may appoint one or more appraisers to assist the court in fixing a fair value for the securities of each dissenting offeree. Appointment of appraisers

(20) The final order of the court shall be made against the offeror in favour of each dissenting offeree. Final order

(21) In connection with proceedings under this section, the court may make any order it thinks fit and, without limiting the generality of the foregoing, it may, What court may order

- (a) fix the amount of money or other consideration that is required to be held in trust under subsection (6) or (7);
- (b) order that the money or other consideration be held in trust by a person other than,
 - (i) the offeree corporation, or
 - (ii) in the case of an issuer bid, the offeror corporation;
- (c) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date he sends his security certificates under subsection (4) until the date of payment; or
- (d) order that any money payable to a dissenting offeree who cannot be found be paid to the Public Trustee. *New.*

188.—(1) Where 90 per cent or more of a class of securities of a corporation, other than debt obligations, are acquired by or on behalf of a person, his affiliates and his associates, then the holder of any securities of that class not counted for the purposes of calculating such percentage shall be entitled in accordance with this section to require the corporation to acquire his securities of that class. Where corporation required to acquire securities

- Notice (2) Every corporation, within thirty days after it becomes aware that security holders are entitled to require it to acquire their securities under subsection (1), shall send a written notice to each such security holder that he may within sixty days after the date of such notice require the corporation to acquire his securities.
- Idem (3) The notice sent by the corporation under subsection (2) shall,
- (a) set out a price that the corporation is willing to pay for the securities;
 - (b) give the basis for arriving at the price;
 - (c) state the location where any supporting material used for arriving at the price may be examined and extracts taken therefrom by the security holder or his duly authorized agent; and
 - (d) state that if the security holder is not satisfied with the price offered by the corporation in the notice he is entitled to have the fair value of his securities fixed by the court.
- Election by security holder (4) Where a security holder receives a notice under subsection (2) and wishes the corporation to acquire his securities, he may, within sixty days after the date of the notice,
- (a) elect to accept the price offered by the corporation by giving notice of his acceptance to the corporation and by forthwith sending his security certificates to the corporation; or
 - (b) notify the corporation that he wishes to have the fair value of his securities fixed by the court.
- Application to fix fair value (5) Where a security holder wishes to have the fair value of his securities fixed by the court, the corporation shall make an application to the court within ninety days after the date of the notice under subsection (2).
- Idem (6) If a corporation fails to send notice under subsection (2), a security holder, after giving the corporation thirty days notice of his intention so to do, may apply to the court to have the fair value of his securities fixed.
- Idem (7) If a corporation fails to make an application to the court as required under subsection (5), a security holder may make the application.

(8) Upon an application to the court under subsection (5), (6) ^{Parties} or (7),

- (a) all security holders who have notified the corporation under clause (4) (b) may be joined as parties as the court thinks fit and, if so joined, are bound by the decision of the court; and
- (b) the corporation shall notify each security holder entitled to notice under subsection (2) of the date, place and purpose of the application and of his right to appear and be heard in person or by counsel.

(9) Upon an application to the court under subsection (5), (6) ^{Idem} or (7), the court may determine whether any security holders should properly be sent or have been sent notice and whether such security holders should be joined as parties.

(10) The court may appoint one or more appraisers to assist the ^{Appointment of} court in fixing a fair value for the securities. ^{appraiser}

(11) The final order of the court shall be made against the ^{Final} corporation in favour of each entitled security holder. ^{order}

(12) A security holder requesting the court to fix the fair value ^{Security not} of his securities is not required to give security for costs on the ^{required} application.

(13) The costs under this section shall be on a solicitor and client ^{Costs} basis. *New.*

189.—(1) In this section,

<sup>Inter-
tation</sup>

- (a) “affected security” means a participating security of a corporation in which the interest of the holder would be terminated by reason of a going private transaction;
- (b) “going private transaction” means an amalgamation, arrangement, consolidation or other transaction carried out under this Act by a corporation that would cause the interest of a holder of a participating security of the corporation to be terminated without the consent of the holder and without the substitution therefor of an interest of equivalent value in a participating security that,

- (i) is issued by the corporation, an affiliate of the corporation or a successor body corporate, and

- (ii) is not limited in the extent of its participation in earnings to any greater extent than the participating security for which it is substituted,

but does not include,

- (iii) an acquisition under section 187,
 - (iv) a redemption of, or other compulsory termination of the interest of the holder in, a security if the security is redeemed or otherwise acquired in accordance with the terms and conditions attaching thereto or under a requirement of the articles relating to the class of securities or of this Act, or
 - (v) a proceeding under Part XVI;
- (c) “participating security” means a security issued by a body corporate other than a security that is, in all circumstances, limited in the extent of its participation in earnings and includes,
- (i) a security currently convertible into such a security, and
 - (ii) currently exercisable warrants entitling the holder to acquire such a security or such a convertible security.

Going private
transaction

(2) A corporation that proposes to carry out a going private transaction shall have prepared by an independent, qualified valuer a written valuation indicating a per security value or range of values for each class of affected securities, and,

- (a) the valuation shall be prepared or revised as of a date not more than 120 days before the announcement of the going private transaction, with appropriate adjustments for subsequent events other than the going private transaction;
- (b) the valuation shall not contain a downward adjustment to reflect the fact that the affected securities do not form part of a controlling interest; and
- (c) if the consideration to be received by the holders of the affected securities is wholly or partly other than cash, or a right to receive cash within ninety days after the approval by security holders of the going private transaction, the valuation shall include the valuer’s opinion

whether the value of each affected security to be surrendered is equal to or greater than the total value of the consideration to be received therefor.

(3) The corporation shall send a management information circular to the holders of the affected securities not less than forty days prior to the date of a meeting which shall be called by it to consider that transaction, and the information circular shall contain, in addition to any other required information and subject to any exemption granted under subsection (6),

Information
circular

- (a) a summary of the valuation prepared in compliance with subsection (2) and a statement that a holder of an affected security may inspect a copy of the valuation at the registered office of the corporation or may obtain a copy of the valuation upon request and payment of a specified amount sufficient to cover reasonable costs of reproduction and mailing;
- (b) a statement of the approval or approvals of holders of affected securities required to be obtained in accordance with this section;
- (c) a certificate signed by a senior officer or a director of the corporation certifying that he and, to his knowledge, the corporation are unaware of any material fact relevant to the valuation prepared in compliance with subsection (2) that was not disclosed to the valuer; and
- (d) a statement of the class or classes of affected securities and of the number of securities of each class and, if any securities of any such class are, under paragraph 3 of subsection (4), not to be taken into account in the vote required by subsection (4), a statement of the number thereof and why they are not to be taken into account,

but if all or any portion of a class of affected securities is represented by certificates that are not in registered form, it shall be sufficient to make the information circular available to the holders of such affected securities in the manner provided for in the terms of the securities for sending notice to such holders or otherwise in such manner as may be prescribed.

(4) A corporation shall not carry out a going private transaction unless, in addition to any other required security holder approval, the transaction is approved by the holders of each class of affected securities by a vote in accordance with the following provisions:

Idem

1. If the consideration to be received by a holder of an affected security of the particular class is,

- i. payable wholly or partly other than in cash or a right to receive cash within ninety days after the approval of the going private transaction, or
- ii. payable entirely in cash and is less in amount than the per security value or the mid-point of the range of per security values, arrived at by the valuation prepared in compliance with subsection (2),

then the approval shall be given by a special resolution.

- 2. In cases other than those referred to in paragraph 1, the approval shall be given by an ordinary resolution.
- 3. In determining whether the transaction has been approved by the requisite majority, the votes of,
 - i. securities held by affiliates of the corporation,
 - ii. securities the beneficial owners of which will, consequent upon the going private transaction, be entitled to a per security consideration greater than that available to other holders of affected securities of the same class,
 - iii. securities the beneficial owners of which, alone or in concert with others, effectively control the corporation and who, prior to distribution of the information circular, entered into an understanding that they would support the going private transaction,

shall be disregarded both in determining the total number of votes cast and in determining the number of votes cast in favour of or against the transaction.

Effect of
section

(5) The rights provided by this section are in addition to any other rights of a holder of affected securities.

Powers of
Commission

(6) Upon an application by an interested person, the Commission may, subject to such terms and conditions as it may impose, exempt any person from any requirement of this section where in its opinion to do so would not be prejudicial to the public interest, and the Commission may publish guidelines as to the manner and circumstances in which it will exercise this discretion.

Rights of
security holder

(7) A holder of an affected security that is a share of any class of a corporation may dissent from a going private transaction upon compliance with the procedures set out in section 184, in which case he shall be entitled to the rights and remedies provided by that section. *New.*

PART XVI

LIQUIDATION AND DISSOLUTION

190. In sections 192 to 235, “contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Act. R.S.O. 1980, c. 54, s. 192. Interpretation

191. Sections 192 to 204 apply to corporations being wound up voluntarily. R.S.O. 1980, c. 54, s. 193. Application of ss. 192-204

192.—(1) The shareholders of a corporation may, by special resolution, require the corporation to be wound up voluntarily. Voluntary winding up

(2) At such meeting, the shareholders shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property, and may at that or any subsequent meeting fix his remuneration and the costs, charges and expenses of the winding up. Appointment of liquidator

(3) On the application of any shareholder or creditor of the corporation or of the liquidator, the court may review the remuneration of the liquidator and, whether or not the remuneration has been fixed in accordance with subsection (2), the court may fix and determine the remuneration at such amount as it thinks proper. Review of remuneration by court

(4) A corporation shall file notice, in the prescribed form, of a resolution requiring the voluntary winding up of the corporation with the Director within ten days after the resolution has been passed and shall publish the notice in *The Ontario Gazette* within twenty days after the resolution has been passed. R.S.O. 1980, c. 54, s. 194, *amended*. Publication of notice

193. The shareholders of a corporation being wound up voluntarily may delegate to any committee of shareholders, contributories or creditors, hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may enter into any arrangement with creditors of the corporation with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1980, c. 54, s. 195, *amended*. Inspectors

194. If a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a meeting for that purpose may be called by the continuing Vacancy in office of liquidator

liquidator, if any, or by any shareholder or contributory, and shall be deemed to have been duly held if called in the manner prescribed by the articles or by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling meetings of the shareholders of the corporation. R.S.O. 1980, c. 54, s. 196, *amended*.

Removal of
liquidator

195. The shareholders of a corporation may by ordinary resolution passed at a meeting called for that purpose remove a liquidator appointed under section 192, 193 or 194, and in such case shall appoint another liquidator in his stead. R.S.O. 1980, c. 54, s. 197, *amended*.

Commence-
ment of
winding up

196. A voluntary winding up commences at the time of the passing of the resolution requiring the winding up or at such later time as may be specified in the resolution. R.S.O. 1980, c. 54, s. 198, *amended*.

Corporation
to cease
business

197. A corporation being wound up voluntarily shall, from the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required as beneficial for the winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its articles or by-laws, continue until its affairs are wound up. R.S.O. 1980, c. 54, s. 199, *amended*.

No proceedings
against
corporation
after
voluntary
winding up
except by leave

198. After the commencement of a voluntary winding up,

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1980, c. 54, s. 200.

List of
contributories
and calls

199.—(1) Upon a voluntary winding up, the liquidator,

- (a) shall settle the list of contributories; and
- (b) may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he considers necessary for satisfying the

liabilities of the corporation and the costs, charges and expenses of winding up and for adjusting the rights of the contributories among themselves.

(2) A list settled by the liquidator under clause (1) (a) is *prima facie* proof of the liability of the persons named therein to be contributories. List *prima facie* proof

(3) The liquidator in making a call under clause (1) (b) may take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1980, c. 54, s. 201. Default on calls

200.—(1) The liquidator may, during the continuance of the voluntary winding up, call meetings of the shareholders of the corporation for any purpose he thinks fit. Meetings of corporation during winding up

(2) Where a voluntary winding up continues for more than one year, the liquidator shall call a meeting of the shareholders of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and he shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the immediately preceding year. R.S.O. 1980, c. 54, s. 202. Where winding up continues more than one year

201. The liquidator, with the approval of the shareholders of the corporation or the inspectors, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1980, c. 54, s. 203, *amended*. Arrangements with creditors

202. The liquidator may, with the approval referred to in section 201, compromise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person who may be liable to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1980, c. 54, s. 204. Power to compromise with debtors and contributories

Power to
accept shares,
etc., as
consideration
for sale of
property to
another body
corporate

203.—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and it is proposed to transfer the whole or a portion of its business or property to another body corporate, the liquidator, with the approval of a resolution of the shareholders of the corporation conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part-compensation for the transfer, cash or shares or other like interest in the purchasing body corporate or any other body corporate for the purpose of distribution among the creditors or shareholders of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing body corporate or any other body corporate.

Confirmation
of sale or
arrangement

(2) A transfer made or arrangement entered into by the liquidator under this section is not binding on the shareholders of the corporation that is being wound up unless the transfer or arrangement is approved in accordance with subsections 183 (3), (6) and (7).

Where
resolution
not invalid

(3) No resolution is invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1980, c. 54, s. 205, *amended*.

Account of
voluntary
winding up to
be made by
liquidator to
a meeting

204.—(1) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the corporation disposed of, and thereupon shall call a meeting of the shareholders of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner prescribed by the articles or by-laws or, in default thereof, in the manner prescribed by this Act for the calling of meetings of shareholders.

Notice of
holding of
meeting

(2) The liquidator shall within ten days after the meeting is held file a notice in the prescribed form with the Director stating that the meeting was held and the date thereof and shall forthwith publish the notice in *The Ontario Gazette*.

Dissolution

(3) Subject to subsection (4), on the expiration of three months after the date of the filing of the notice, the corporation is dissolved.

Extension

(4) At any time during the three-month period mentioned in subsection (3), the court may, on the application of the liquidator or any other person interested, make an order deferring the date on

which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is dissolved on the date so fixed.

(5) Notwithstanding anything in this Act, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order. Dissolution by court order

(6) The person on whose application an order was made under subsection (4) or (5) shall within ten days after it was made file with the Director a certified copy of the order and forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 206, *amended*. Copy of extension order to be filed

205. Sections 206 to 217 apply to corporations being wound up by order of the court. R.S.O. 1980, c. 54, s. 207. Application of ss. 206-217

206.—(1) A corporation may be wound up by order of the court, Winding up by court

(a) where the court is satisfied that in respect of the corporation or any of its affiliates,

- (i) any act or omission of the corporation or any of its affiliates effects a result,
- (ii) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted in a manner, or
- (iii) the powers of the directors of the corporation or any of its affiliates are or have been exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer; or

(b) where the court is satisfied that,

- (i) a unanimous shareholder agreement entitled a complaining shareholder to demand dissolution of the corporation after the occurrence of a specified event and that event has occurred,
- (ii) proceedings have been begun to wind up voluntarily and it is in the interest of contributories and

creditors that the proceedings should be continued under the supervision of the court,

(iii) the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its business and it is advisable to wind it up, or

(iv) it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up; or

(c) where the shareholders by special resolution authorize an application to be made to the court to wind up the corporation.

Court order (2) Upon an application under this section, the court may make such order under this section or section 247 as it thinks fit. R.S.O. 1980, c. 54, s. 208, *amended*.

Who may apply **207.**—(1) A winding-up order may be made upon the application of the corporation or of a shareholder or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$2,500 or more.

Notice (2) Except where the application is made by the corporation, four days' notice of the application shall be given to the corporation before the making of the application. R.S.O. 1980, c. 54, s. 209.

Power of court **208.** The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference. R.S.O. 1980, c. 54, s. 210.

Appointment of liquidator **209.**—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property.

Remuneration (2) The court may at any time fix the remuneration of the liquidator.

Vacancy (3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy. R.S.O. 1980, c. 54, s. 211 (1-3).

(4) A liquidator appointed by the court under this section shall forthwith give to the Director notice in the prescribed form of his appointment and shall, within twenty days after his appointment, publish the notice in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 220 (4), *amended*. Notice of appointment

210. The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. R.S.O. 1980, c. 54, s. 212. Removal of liquidator

211. The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court. R.S.O. 1980, c. 54, s. 213. Costs and expenses

212. Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall, unless a court otherwise orders, be deemed to commence at the time of the service of notice of the application, and, where the application is made by the corporation, at the time the application is made. R.S.O. 1980, c. 54, s. 214. Commencement of winding up

213. Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1980, c. 54, s. 215. Proceedings in winding up after order

214.—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders of the corporation to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court. Meetings of shareholders of corporation may be ordered

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, officer, employee, trustee, banker or agent of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, documents, records, estate or effects that are in his hands and to which the corporation is *prima facie* entitled. Order for delivery by contributories and others of property, etc.

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the documents and Inspection of documents and records

records of the corporation by its creditors and contributories, and any documents and records in the possession of the corporation may be inspected in conformity with the order. R.S.O. 1980, c. 54, s. 216.

Proceedings
against cor-
poration after
court winding
up

215. After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1980, c. 54, s. 217.

Provision for
discharge and
distribution by
the court

216.—(1) Where the realization and distribution of the property of a corporation being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of
documents and
records

(2) In such case, the court may make an order directing how the documents and records of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court thinks fit. R.S.O. 1980, c. 54, s. 218.

Order for
dissolution

217.—(1) The court at any time after the business and affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Copy of dissol-
ution order to
be filed

(2) The person on whose application the order was made shall within ten days after it was made file with the Director a certified copy of the order and shall forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 219, *amended*.

Application of
ss. 219-235

218. Sections 219 to 235 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1980, c. 54, s. 220.

219. Where there is no liquidator,Where no
liquidator

- (a) the court may by order on the application of a shareholder of the corporation appoint one or more persons as liquidator; and
- (b) the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. R.S.O. 1980, c. 54, s. 221.

220.—(1) Upon a winding up,Consequences
of winding up

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities and, subject thereto, shall distribute the property rateably among the shareholders according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, debts to employees of the corporation for services performed for it due at the commencement of the winding up or within one month before, not exceeding three months' wages and vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;
- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

(2) Section 53 of the *Trustee Act* applies with necessary modifications to liquidators. R.S.O. 1980, c. 54, s. 222.

Distribution of
property
R.S.O. 1980,
c. 512

221. The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. R.S.O. 1980, c. 54, s. 223.

Payment of
costs and
expenses**222.—(1)** A liquidator may,Powers of
liquidators

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as may be required as beneficial for the winding up of the corporation;

- (c) sell the property of the corporation by public auction or private sale and receive payment of the purchase price either in cash or otherwise;
- (d) do all acts and execute, in the name and on behalf of the corporation, all documents, and for that purpose use the seal of the corporation, if any;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration of the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be done conveniently in the name of the corporation; and
- (h) do and execute all such other things as are necessary for winding up the business and affairs of the corporation and distributing its property.

Bills of exchange, etc., to be deemed drawn in the course of business

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of a corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Where moneys deemed to be due to liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself.

What liquidator may rely upon

(4) Where he does so in good faith, a liquidator is entitled to rely upon,

- (a) financial statements of the corporation represented to him by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) an opinion, a report or a statement of a lawyer, an accountant, an engineer, an appraiser or other profes-

sional adviser retained by the liquidator. R.S.O. 1980, c. 54, s. 224, *amended*.

223. Where more than one person is appointed as liquidator, Acts by more than one liquidator
any power conferred by sections 192 to 235 on a liquidator may be exercised by such one or more of such persons as may be determined by the resolution or order appointing them or, in default of such determination, by any number of them not fewer than two. R.S.O. 1980, c. 54, s. 225.

224. The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. R.S.O. 1980, c. 54, s. 226. Nature of liability of contributory

225. If a contributory dies before or after he has been placed on the list of contributories, his personal representative is liable in due course of administration to contribute to the property of the corporation in discharge of the liability of the deceased contributory and shall be a contributory accordingly. R.S.O. 1980, c. 54 s. 227. Liability in case of his death

226.—(1) The liquidator shall deposit all moneys that he has belonging to the corporation and amounting to \$100 or more in any chartered bank of Canada or in the Province of Ontario Savings Office or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act* or in any other depository approved by the court. R.S.O. 1980, c. 54, s. 228 (1), *amended*. Deposit of moneys
R.S.O. 1980, c. 249

(2) If inspectors have been appointed, the depository under subsection (1) shall be one approved by them. Approval by inspectors

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only by order for payment signed by the liquidator and one of the inspectors, if any. Separate deposit account to be kept; withdrawal from account

(4) At every meeting of the shareholders of the corporation, the liquidator shall produce a pass-book, or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting. Liquidator to produce bank pass-book

Idem

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder of the corporation. R.S.O. 1980, c. 54, s. 228 (2-5).

Proving claim
R.S.O. 1980,
c. 33

227. For the purpose of proving claims, sections 23, 24 and 25 of the *Assignments and Preferences Act* apply with necessary modifications, except that where the word “judge” is used therein, the word “court” as used in this Act shall be substituted. R.S.O. 1980, c. 54, s. 229.

Application
for direction

228. Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as the court prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1980, c. 54, s. 230.

Examination
of persons
as to
estate

229.—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director, officer or employee of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court thinks capable of giving information concerning its trade, dealings, estate or effects.

Damages
against
delinquent
directors,
etc.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director, officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, property of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor, shareholder or contributory, examine the conduct of that person and order him to restore the property so misapplied or retained, or for which he has become liable or accountable, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, or both, as the court thinks just. R.S.O. 1980, c. 54, s. 231.

Proceedings
by
shareholders

230.—(1) Where a shareholder of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or of the inspectors, if any, refuses or neglects to take such proceedings after being required so to do, the shareholder may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

(2) Any benefit derived from a proceeding under subsection (1) belongs exclusively to the shareholder causing the institution of the proceeding for his benefit and that of any other shareholder who has joined him in causing the institution of the proceeding. Benefits: when for shareholders

(3) If, before the order is granted, the liquidator signifies to the court his readiness to institute the proceeding for the benefit of the corporation, the court shall make an order prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. R.S.O. 1980, c. 54, s. 232. when for corporation

231. The rights conferred by this Act are in addition to any other right to institute proceedings against any contributory, or against any debtor of the corporation, for the recovery of any sum due from such contributory or debtor or his estate. R.S.O. 1980, c. 54, s. 233. Rights conferred by Act to be in addition to other powers

232. At any time during a winding up, the court, upon the application of a shareholder, creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court thinks fit. R.S.O. 1980, c. 54, s. 234. Stay of winding up proceedings

233.—(1) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and thereupon subsections 237 (5) and (6) apply thereto. Where creditor unknown

(2) A payment under subsection (1) shall be deemed to be in satisfaction of the debt for the purposes of winding up. R.S.O. 1980, c. 54, s. 235. Idem

234.—(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders because a shareholder is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder, and thereupon subsections 237 (5) and (6) apply thereto. Where shareholder unknown

(2) A delivery or conveyance under subsection (1) shall be deemed to be a distribution to that shareholder of his rateable Idem

share for the purposes of the winding up. R.S.O. 1980, c. 54, s. 236.

Disposal of records, etc., after winding up

235.—(1) Where a corporation has been wound up under sections 191 to 234 and is about to be dissolved, its documents and records and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under an order.

When responsibility as to custody of records, etc., to cease

(2) After the expiration of five years after the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of the documents and records has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1980, c. 54, s. 237.

Voluntary dissolution

236. A corporation may be dissolved upon the authorization of,

- (a) a special resolution passed at a meeting of the shareholders of the corporation duly called for the purpose or, in the case of a corporation that is not an offering corporation, by such other proportion of the votes cast as the articles provide, but such other proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting;
- (b) the consent in writing of all the shareholders entitled to vote at such meeting; or
- (c) all its incorporators or their personal representatives at any time within two years after the date set out in its certificate of incorporation where the corporation has not commenced business and has not issued any shares. R.S.O. 1980, c. 54, s. 238, *amended*.

Articles of dissolution where corporation active

237.—(1) For the purpose of bringing the dissolution authorized under clause 236 (a) or (b) into effect, articles of dissolution shall follow the prescribed form and shall set out,

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause 236 (a) or (b);
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection (3) or its creditors or other

persons having interests in its debts, obligations or liabilities consent to its dissolution;

- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection (4) where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its registered office. R.S.O. 1980, c. 54, s. 139 (1), *amended*.

(2) For the purpose of bringing a dissolution authorized under clause 236 (c) into effect, articles of dissolution shall follow the prescribed form and shall set out,

Articles of
dissolution
where
corporation
never active

- (a) the name of the corporation;
- (b) the date set out in its certificate of incorporation;
- (c) that the corporation has not commenced business;
- (d) that none of its shares has been issued;
- (e) that dissolution has been duly authorized under clause 236 (c);
- (f) that it has no debts, obligations or liabilities;
- (g) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto;
- (h) that there are no proceedings pending in any court against it; and
- (i) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its registered office. R.S.O. 1980, c. 54, s. 239 (2), *amended*.

Where creditor
unknown

(3) Where a corporation authorizes its dissolution and a creditor is unknown or his whereabouts is unknown, the corporation may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause (1) (c).

Where
shareholder
unknown

(4) Where a corporation authorizes its dissolution and a shareholder is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a distribution to that shareholder of his rateable share for the purposes of the dissolution.

Power to
convert

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection (4) is in a form other than cash, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash.

Payment to
person entitled

(6) If the amount paid under subsection (3) or the share of the property delivered or conveyed under subsection (4) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him. R.S.O. 1980, c. 54, s. 239 (3-6).

Certificate of
dissolution

238.—(1) Upon receipt of the articles of dissolution, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of dissolution.

Incorporators
to sign articles
of dissolution
where corpora-
tion did not
commence
business

(2) Notwithstanding clause 272 (1) (a), articles of dissolution for the purposes of subsection 237 (2) shall be signed by all its incorporators or their personal representatives. R.S.O. 1980, c. 54, s. 240, *amended*.

Cancellation of
certificate, etc.,
by Director

239.—(1) Where sufficient cause is shown to the Director, notwithstanding the imposition of any other penalty in respect thereof and in addition to any rights he may have under this or any other Act, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any other certificate issued by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance of the certificate ceases to be in effect from the date fixed in the order.

(2) In this section, “sufficient cause” with respect to cancellation of a certificate of incorporation includes, Interpretation

- (a) failure to pay the prescribed fee for incorporation;
- (b) failure to comply with subsection 115 (2) or subsection 118 (3);
- (c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; R.S.O. 1980, c. 96
- (d) a conviction of the corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where cancellation of the certificate is in the public interest; or R.S.C. 1970, c. C-34
R.S.O. 1980, c. 400
- (e) conduct described in subsection 247 (2). R.S.O. 1980, c. 54, s. 241, amended.

240.—(1) Where the Director is notified by the Minister of Revenue that a corporation is in default in complying with the provisions of the *Corporations Tax Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation remedies its default within ninety days after the giving of the notice. Notice of dissolution
R.S.O. 1980, c. 97

(2) Where the Director is notified by the Commission that a corporation has not complied with sections 76 and 77 of the *Securities Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with sections 76 and 77 of the *Securities Act* within ninety days after the giving of the notice. Idem
R.S.O. 1980, c. 466

(3) Upon default in compliance with the notice given under subsection (1) or (2), the Director may by order cancel the certificate of incorporation and, subject to subsection (4), the corporation is dissolved on the date fixed in the order. Order for dissolution

Revival	(4) Where a corporation is dissolved under subsection (3) or any predecessor thereof, the Director on the application of any interested person immediately before the dissolution, made within five years after the date of dissolution, may, in his discretion, on such terms and conditions as he sees fit to impose, revive the corporation and thereupon the corporation, subject to the terms and conditions imposed by the Director and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights and privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.
Articles of revival	(5) The application referred to in subsection (4) shall be in the form of articles of revival which shall be in prescribed form.
Certificate of revival	(6) Upon receipt of articles of revival and any other prescribed documents, the Director, subject to subsection (4), shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of revival. R.S.O. 1980, c. 54, s. 242, <i>amended</i> .
Actions after dissolution	241. —(1) Notwithstanding the dissolution of a corporation under section 238, 239 or 240, <ul style="list-style-type: none"> (a) a civil, criminal or administrative action or proceeding commenced by or against the corporation before its dissolution may be continued as if the corporation had not been dissolved; (b) a civil, criminal or administrative action or proceeding may be brought against the corporation within five years after its dissolution as if the corporation had not been dissolved; and (c) any property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for such purpose.
Service after dissolution	(2) For the purposes of this section, the service of any process on a corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Ministry as being a director or officer of the corporation before the dissolution. R.S.O. 1980, c. 54, s. 243.
Idem	(3) Where an action, suit or other proceeding has been brought against a corporation after its dissolution, notice of the commencement of the action, suit or other proceeding, together with the writ or other document by which the action, suit or other proceeding was commenced, shall be served upon the Public Trustee. <i>New</i> .

242.—(1) Notwithstanding the dissolution of a corporation, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 241 to the extent of the amount received by that shareholder upon the distribution, and an action to enforce such liability may be brought within five years after the date of the dissolution of the corporation. Liability of shareholders to creditors

(2) The court may order an action referred to in subsection (1) to be brought against the persons who were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes his claim, the court may refer the proceedings to a referee or other officer of the court who may, Party action

(a) add as a party to the proceedings before him each person who was a shareholder found by the plaintiff;

(b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff's claim; and

(c) direct payment of the amounts so determined.

(3) In this section, "shareholder" includes the heirs and legal representatives of a shareholder. R.S.O. 1980, c. 54, s. 244, *amended*. Interpretation

243.—(1) Any property of a corporation that has not been disposed of at the date of its dissolution is immediately upon such dissolution forfeit to the Crown. R.S.O. 1980, c. 54, s. 245, *amended*. Forfeiture of undisposed property

(2) Where judgment is given or an order or decision is made in an action, suit or proceeding commenced in accordance with the provisions of section 241 and the judgment, order or decision affects property formerly belonging to the corporation, the property, notwithstanding subsection (1), shall be available to satisfy the judgment, order or other decision unless the plaintiff or applicant has failed to give notice to the Public Trustee in accordance with subsection 241 (3). *New*. Exception

PART XVII

REMEDIES, OFFENCES AND PENALTIES

244. In this Part,

Interpretation

(a) "action" means an action under this Act;

(b) "complainant" means,

- (i) a registered holder or beneficial owner, and a former registered holder or beneficial owner, of a security of a corporation or any of its affiliates,
- (ii) a director or an officer or a former director or officer of a corporation or of any of its affiliates,
- (iii) any other person who, in the discretion of the court, is a proper person to make an application under this Part. *New.*

Derivative
actions

245.—(1) Subject to subsection (2), a complainant may apply to the court for leave to bring an action in the name and on behalf of a corporation or any of its subsidiaries, or intervene in an action to which any such body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the body corporate.

Idem

(2) No action may be brought and no intervention in an action may be made under subsection (1) unless the complainant has given fourteen days' notice to the directors of the corporation or its subsidiary of his intention to apply to the court under subsection (1) and the court is satisfied that,

- (a) the directors of the corporation or its subsidiary will not bring, diligently prosecute or defend or discontinue the action;
- (b) the complainant is acting in good faith; and
- (c) it appears to be in the interests of the corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued.

Ex parte
application

(3) Where a complainant on an *ex parte* application can establish to the satisfaction of the court that it is not expedient to give notice as required under subsection (2), the court may make such interim order as it thinks fit pending the complainant giving notice as required.

Interim
order

(4) Where a complainant on an application can establish to the satisfaction of the court that an interim order for relief should be made, the court may make such order as it thinks fit. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Court
order

246. In connection with an action brought or intervened in under section 245, the court may at any time make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order authorizing the complainant or any other person to control the conduct of the action;
- (b) an order giving directions for the conduct of the action;
- (c) an order directing that any amount adjudged payable by a defendant in the action shall be paid, in whole or in part, directly to former and present security holders of the corporation or its subsidiary instead of to the corporation or its subsidiary; and
- (d) an order requiring the corporation or its subsidiary to pay reasonable legal fees and any other costs reasonably incurred by the complainant in connection with the action. R.S.O. 1980, c. 54, s. 97, *part, amended*.

247.—(1) A complainant, the Director and, in the case of an offering corporation, the Commission may apply to the court for an order under this section. Application to court: oppression remedy

(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a corporation or any of its affiliates, Idem

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer of the corporation, the court may make an order to rectify the matters complained of.

(3) In connection with an application under this section, the court may make any interim or final order it thinks fit including, Court order without limiting the generality of the foregoing,

- (a) an order restraining the conduct complained of;
- (b) an order appointing a receiver or receiver-manager;
- (c) an order to regulate a corporation's affairs by amending the articles or by-laws or creating or amending a unanimous shareholder agreement;

- (d) an order directing an issue or exchange of securities;
- (e) an order appointing directors in place of or in addition to all or any of the directors then in office;
- (f) an order directing a corporation, subject to subsection (6), or any other person, to purchase securities of a security holder;
- (g) an order directing a corporation, subject to subsection (6), or any other person, to pay to a security holder any part of the moneys paid by him for securities;
- (h) an order varying or setting aside a transaction or contract to which a corporation is a party and compensating the corporation or any other party to the transaction or contract;
- (i) an order requiring a corporation, within a time specified by the court, to produce to the court or an interested person financial statements in the form required by section 153 or an accounting in such other form as the court may determine;
- (j) an order compensating an aggrieved person;
- (k) an order directing rectification of the registers or other records of a corporation under section 249;
- (l) an order winding up the corporation under section 206;
- (m) an order directing an investigation under Part XIII be made; and
- (n) an order requiring the trial of any issue.

Idem

(4) Where an order made under this section directs amendment of the articles or by-laws of a corporation,

- (a) the directors shall forthwith comply with subsection 185 (4); and
- (b) no other amendment to the articles or by-laws shall be made without the consent of the court, until the court otherwise orders.

Shareholder
may not
dissent

(5) A shareholder is not entitled to dissent under section 184 if an amendment to the articles is effected under this section.

(6) A corporation shall not make a payment to a shareholder under clause (3) (f) or (g) if there are reasonable grounds for believing that,

Where corporation prohibited from paying shareholder

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.
New.

248.—(1) An application made or an action brought or intervened in under this Part shall not be stayed or dismissed by reason only that it is shown that an alleged breach of a right or duty owed to the corporation or its affiliate has been or may be approved by the shareholders of such body corporate, but evidence of approval by the shareholders may be taken into account by the court in making an order under section 206, 246 or 247. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Discontinuance and settlement

(2) An application made or an action brought or intervened in under this Part shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any complainant may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application or action to give notice to the complainant.

Idem

(3) A complainant is not required to give security for costs in any application made or action brought or intervened in under this Part.

Costs

(4) In an application made or an action brought or intervened in under this Part, the court may at any time order the corporation or its affiliate to pay to the complainant interim costs, including reasonable legal fees and disbursements, for which interim costs the complainant may be held accountable to the corporation or its affiliate upon final disposition of the application or action. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Idem

249.—(1) Where the name of a person is alleged to be or have been wrongly entered or retained in, or wrongly deleted or wrongly omitted from, the registers or other records of a corporation, the corporation, a security holder of the corporation or any aggrieved person may apply to the court for an order that the registers or records be rectified.

Rectifying error in entering, etc., name

Idem

(2) In connection with an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order requiring the registers or other records of the corporation to be rectified;
- (b) an order restraining the corporation from calling or holding a meeting of shareholders or paying a dividend or making any other distribution or payment to shareholders before the rectification;
- (c) an order determining the right of a party to the proceedings to have his name entered or retained in, or deleted or omitted from, the registers or records of the corporation, whether the issue arises between two or more security holders, or between the corporation and any security holders or alleged security holders;
- (d) an order compensating a party who has incurred a loss. R.S.O. 1980, c. 54, s. 159, *amended*.

Notice of
refusal
to file

250.—(1) Where the Director refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor.

Failure to
act deemed
refusal

(2) Where, within six months after the delivery to the Director of articles or other documents referred to in subsection (1), the Director has not endorsed a certificate on such articles or other document, he shall be deemed for the purposes of section 251 to have refused to endorse it. R.S.O. 1980, c. 54, s. 260, *amended*.

Appeal from
Director

251.—(1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse a certificate on articles or on any other document;
- (b) to issue or to refuse to issue a certificate of amendment under section 12;
- (c) to refuse to grant an order under section 144;
- (d) to grant or refuse to grant exemption under section 148;

(e) to refuse to endorse an authorization under section 180;
or

(f) to issue an order under section 239,

may appeal to the Divisional Court.

(2) Every appeal shall be by notice of motion sent by registered mail to the Director within thirty days after the mailing of the notice of the decision. Form of appeal

(3) The Director shall certify to the Registrar of the Supreme Court, Certificate of Director

(a) the decision of the Director together with a statement of the reasons therefor;

(b) the record of any hearing; and

(c) all written submissions to the Director or other material that is relevant to the appeal.

(4) The Director is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Representation

(5) Where an appeal is taken under this section, the court may by its order direct the Director to make such decision or to do such other act as the Director is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Director shall make such decision or do such act accordingly. Court order

(6) Notwithstanding an order of the court under subsection (5), the Director has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. R.S.O. 1980, c. 54, s. 261, *amended*. Director may make further decision

252.—(1) Where a corporation or any shareholder, director, officer, employee, agent, auditor, trustee, receiver and manager, receiver, or liquidator of a corporation does not comply with this Act, the regulations, articles, by-laws, or a unanimous shareholder agreement, a complainant or a creditor of the corporation may, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other right he has, apply to the court for an order directing the corporation or any person to comply with, or restraining the corporation or any Orders for compliance

person from acting in breach of, any provisions thereof, and upon such application the court may so order and make any further order it thinks fit.

Idem

(2) Where it appears to the Commission that any person to whom section 111 or subsection 112 (1) applies has failed to comply with or is contravening either or both of such provisions, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention, the Commission may apply to the court and the court may, upon such application, make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a solicitation, the holding of a meeting or any person from implementing or acting upon any resolution passed at a meeting, to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates;
- (b) an order requiring correction of any form of proxy or information circular and a further solicitation; or
- (c) an order adjourning the meeting to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates. R.S.O. 1980, c. 54, s. 252, *amended*.

Ex parte
application

253. Where this Act states that a person may apply to the court, that person may apply for injunctive relief *ex parte* as the rules of the court provide. *New*.

Appeal

254. An appeal lies to the Divisional Court from any order made by the court under this Act. *New*.

Interpre-
tation

255.—(1) In this section, “misrepresentation” means,

- (a) an untrue statement of material fact; or
- (b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

Offence, false
statements,
etc.

(2) Every person who,

- (a) makes or assists in making a statement in any material, evidence or information submitted or given under this

Act or the regulations to the Director, his delegate or the Commission or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (b) makes or assists in making a statement in any application, articles, consent, financial statement, information circular, notice, report or other document required to be filed with, furnished or sent to the Director or the Commission under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) fails to file with the Director or the Commission any document required by this Act to be filed with him or the Commission; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made by the Director or the Commission under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a body corporate, to a fine of not more than \$25,000.

(3) Where a body corporate is guilty of an offence under sub-^{Idem} section (2), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(4) No person is guilty of an offence under clause (2) (a) or (b) ^{Defence} if he did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation. R.S.O. 1980, c. 54, ss. 247, 248, 250 (2).

256. No proceeding under section 255 shall be commenced ^{Consent} except with the consent or under the direction of the Minister. R.S.O. 1980, c. 54, s. 249.

257.—(1) Every person who, ^{Offence}

- (a) fails without reasonable cause to comply with subsection 29 (5);

- (b) without reasonable cause uses a list of holders of securities in contravention of subsection 52 (5) or subsection 146 (8);
- (c) fails without reasonable cause to send a prescribed form of proxy to each shareholder of an offering corporation with notice of a meeting of shareholders in contravention of subsection 111 (1);
- (d) fails without reasonable cause to send an information circular in connection with a proxy solicitation in contravention of subsection 112 (1);
- (e) being a proxyholder or alternate proxyholder, fails without reasonable cause, to comply with the directions of the shareholder who appointed him in contravention of subsection 114 (1);
- (f) without reasonable cause contravenes section 145;
- (g) being a director of a corporation, fails, without reasonable cause, to appoint an auditor or auditors, as the case may be, under subsection 149 (1);
- (h) being an auditor or former auditor of a corporation fails without reasonable cause to comply with subsection 150 (2);
- (i) fails without reasonable cause to comply with subsection 153 (1); or
- (j) otherwise without reasonable cause commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or if such person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. *New.*

Limitation

258.—(1) No proceeding under section 255 or under clause 257 (1) (j) for a contravention of section 144 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Director as certified by him.

(2) Subject to subsection (1), no proceeding for an offence under this Act or the regulations shall be commenced more than two years after the time when the subject-matter of the offence arose. R.S.O. 1980, c. 54, s. 251, *amended*. Idem

259. An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any prosecution is objectionable as insufficient by reason of the fact that it relates to two or more offences. *New*. Information containing more than one offence

260. No civil remedy for an act or omission is suspended or affected by reason that the act or omission is an offence under this Act. *New*. Civil remedy not affected

PART XVIII

GENERAL

261.—(1) A notice or document required by this Act, the regulations, the articles or the by-laws to be sent to a shareholder or director of a corporation may be sent by prepaid mail addressed to, or may be delivered personally to, Notice to directors or shareholders

(a) a shareholder at his latest address as shown in the records of the corporation or its transfer agent; and

(b) a director at his latest address as shown in the records of the corporation or in the most recent notice filed under the *Corporations Information Act*, whichever is the more current. R.S.O. 1980, c. 96

(2) A notice or document sent in accordance with subsection (1) to a shareholder or director of a corporation is deemed to be received by the addressee on the fifth day after mailing. Idem

(3) A director named in the articles or the most recent return or notice filed under the *Corporations Information Act*, or a predecessor thereof, is presumed for the purposes of this Act to be a director of the corporation referred to in the articles, return or notice. Director

(4) Where a corporation sends a notice or document to a shareholder in accordance with subsection (1) and the notice or document is returned on three consecutive occasions because the shareholder cannot be found, the corporation is not required to send any Where notice returned

further notices or documents to the shareholder until he informs the corporation in writing of his new address.

Application
to court

(5) Where it is impracticable or impossible to comply with subsection (1), a person may apply to the court for such order as the court thinks fit. R.S.O. 1980, c. 54, s. 246, *part, amended*.

Notice to
corporation

262. Except where otherwise provided in this Act, a notice or document required to be sent to a corporation may be sent to the corporation by prepaid mail at its registered office as shown on the records of the Director or may be delivered personally to the corporation at such office and shall be deemed to be received by the corporation on the fifth day after mailing. R.S.O. 1980, c. 54, s. 246 (3), *amended*.

Waiver of
notice and
abridgement of
times

263. Where a notice or document is required by this Act or the regulations to be sent, the notice may be waived or the time for the sending of the notice or document may be waived or abridged at any time with the consent in writing of the person entitled thereto. R.S.O. 1980, c. 54, s. 246 (4), *amended*.

Delegation
of powers
and duties

264.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. *New*.

Execution of
certificate of
Director

(2) Where this Act requires or authorizes the Director to endorse or issue a certificate or to certify any fact, the certificate shall be signed by the Director or any other person designated by the regulations.

Certificate as
evidence

(3) A certificate referred to in subsection (2) or a certified copy thereof, when introduced as evidence in any civil, criminal, or administrative action or proceeding, is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate.

Mechanical
reproduction of
signature

(4) For the purposes of subsections (2) and (3), any signature of the Director or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. R.S.O. 1980, c. 54, s. 257, *amended*.

Certificate
that may be
signed by
directors, etc.

265.—(1) A certificate issued on behalf of a corporation stating any fact that is set out in the articles, the by-laws, a unanimous shareholder agreement, the minutes of the meetings of the directors, a committee of directors or the shareholders, or a trust indenture or other contract to which the corporation is a party, may be signed by a director, an officer or a transfer agent of the corporation.

(2) When introduced as evidence in any civil, criminal or administrative action or proceeding, *Prima facie* evidence

- (a) a fact stated in a certificate referred to in subsection (1);
- (b) a certified extract from a register of a corporation required to be maintained by this Act; or
- (c) a certified copy of minutes or extract from minutes of a meeting of shareholders, directors or a committee of directors of a corporation,

is, in the absence of evidence to the contrary, proof of the facts so certified without proof of the signature or official character of the person appearing to have signed the certificate.

(3) An entry in a securities register of, or a security certificate issued by, a corporation is, in the absence of evidence to the contrary, proof that the person in whose name the security is registered or whose name appears on the certificate is the owner of the securities described in the register or in the certificate, as the case may be. *Idem* *New.*

266.—(1) Where a notice or document is required to be sent to the Director under this Act, the Director may accept a photo-static or photographic copy thereof. *Copy of document acceptable*

(2) Subsection (1) does not apply to articles, applications or documents filed under subsection 9 (3). *Exception to subs. (1)* *New.*

267.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. *Proof by affidavit*

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath. R.S.O. 1980, c. 54, s. 254, *amended.* *Oaths at hearings*

268. The Director shall cause notice to be published forthwith in *The Ontario Gazette*, *Publication of notices in The Ontario Gazette*

- (a) of every endorsement of a certificate in accordance with section 272;
- (b) of every order made under subsection 144 (3) or (4), section 239 or subsection 240 (3); and

- (c) of every endorsement of a corrected certificate described in subsection 273 (3). R.S.O. 1980, c. 54, s. 255, *amended*.

Examination,
etc., of
documents

269.—(1) A person who has paid the prescribed fee is entitled during usual business hours to examine and to make copies of or extracts from any document required by this Act or the regulations to be sent to the Director or the Commission, except a report sent to the Director under subsection 161 (2) that the court has ordered not to be made available to the public.

Copies to be
furnished

(2) Subject to clause 161 (1) (j), the Director or the Commission shall furnish any person with a copy or a certified copy of a document required by this Act or the regulations to be sent to the Director or the Commission. *New*.

Appeal from
Commission

R.S.O. 1980,
c. 466

270. Any person aggrieved by a decision of the Commission under this Act may appeal the decision to the Divisional Court and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. R.S.O. 1980, c. 54, s. 262, *amended*.

Regulations

271. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act including, without limiting the generality of the foregoing, regulations,

1. respecting names of corporations or classes thereof, the designation, rights, privileges, restrictions or conditions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing thereof;
2. requiring the payment of fees for any matter that the Director or the Commission is required or authorized to do under this Act, and prescribing the amounts thereof;
3. prescribing forms for use under this Act and providing for the use thereof;
4. prescribing the form and content of any notices or documents required to be filed under this Act;
5. designating officers of the Ministry for the purposes of endorsing certificates, issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
6. prescribing the form and content of proxies and information circulars required by Part VIII;

7. prescribing requirements with respect to applications to the Director or the Commission for exemptions permitted by this Act and the practice and procedure thereon;
8. prohibiting the use of any words or expressions in a corporate name;
9. defining any word or expression used in clause 9 (1) (b);
10. prescribing requirements for the purposes of clause 9 (1) (c);
11. prescribing conditions for the purposes of subsection 9 (2);
12. prescribing the documents relating to names that shall be filed with the Director under subsection 9 (3);
13. respecting the name of a corporation under subsection 10 (2);
14. prescribing the punctuation marks and other marks that may form part of a corporate name under subsection 10 (3);
15. respecting the content of a special language provision under subsection 10 (4);
16. prescribing the form of the statutory declarations under subsection 52 (1) and subsection 146 (1);
17. prescribing the form and content of financial statements and interim financial statements required under this Act;
18. prescribing standards to be used by an auditor in making an examination of financial statements required under this Act and the manner in which the auditor shall report thereon;
19. prescribing exceptions under section 176;
20. prescribing the manner in which notice may be sent under subsection 189 (3);
21. prescribing the requirements with respect to applications by the Director authorized under subsection 247 (1).

22. prescribing Acts of Canada or a province or ordinances of a territory for purposes of sections 29, 42, 45 and 56 and prescribing the notice required under subsection 45 (1);
23. prescribing the manner in which the directors of corporations may determine that restricted shares are owned contrary to restrictions under subsection 45 (1);
24. prescribing the manner in which funds may be invested under subsection 45 (5);
25. prescribing,
 - i. the disclosure required of any restrictions on the issue, transfer or ownership of shares of corporations in documents issued or published by such corporations,
 - ii. the duties and powers of the directors of corporations to refuse to issue or register transfers of shares in accordance with the articles,
 - iii. the limitations on voting rights of any shares held contrary to the articles, and
 - iv. the powers of the directors of corporations to require disclosure of beneficial ownership of shares and the rights of corporations and their directors, employees or agents to rely on such disclosure and the effects of such reliance;
26. prescribing the circumstances and conditions under which the Director may exercise his power under subsection 148 (2). R.S.O. 1980, c. 54, s. 263, *amended*.

Where
articles
to be sent
to Director

272.—(1) Where this Act requires that articles relating to a corporation be sent to the Director, unless otherwise specifically provided,

- (a) two duplicate originals of the articles shall be signed by a director or an officer of the corporation or, in the case of articles of incorporation, by an incorporator; and
- (b) upon receiving duplicate originals of any articles in the prescribed form that have been executed in accordance with this Act, any other required documents and the prescribed fees, the Director shall, subject to the discretion of the Director as provided in subsection 179 (4) and subsection 240 (6), and, subject to subsection (2),

- (i) endorse on each duplicate original a certificate, setting out the day, month and year of endorsement and the corporation number,
- (ii) file a copy of the articles with the endorsement of the certificate thereon,
- (iii) send to the corporation or its representative one duplicate original of the articles with the endorsement of the certificate thereon, and
- (iv) publish in *The Ontario Gazette*, in accordance with section 268, notice of the endorsement of the certificate.

(2) A certificate referred to in subsection (1) shall be dated as of the day the Director receives the duplicate originals of any articles together with all other required documents executed in accordance with this Act and the prescribed fee, or as of any later date acceptable to the Director and specified by the person who submitted the articles or by the court. Date on certificate

(3) Articles endorsed with a certificate under subsection (1), are effective on the date shown in the certificate notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the certificate and filing by him is taken at a later date. *New.* Effective date of articles

273.—(1) Where a certificate endorsed by the Director contains an error or where a certificate is endorsed by the Director on articles or any other documents that contain an error, the corporation and its directors and shareholders shall, upon the request of the Director and after being given an opportunity to be heard, surrender the certificate and related articles or documents to the Director and pass such resolutions and take such other steps as the Director may reasonably require, and the Director shall then endorse a corrected certificate. Where error in respect of certificate

(2) A corrected certificate endorsed under subsection (1) may bear the date of the certificate it replaces. Date on certificate

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette* in accordance with section 268. Material amendment

(4) A decision of the Director under subsection (1) may be appealed to the Divisional Court which may order the Director to change his decision and make such further order as it thinks fit. *New.* Appeal

Records

274.—(1) Records required by this Act to be prepared and maintained by the Director or Commission may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Admission as evidence

(2) When records maintained by the Director or the Commission are prepared and maintained other than in written form,

(a) the Director or the Commission shall furnish any copy required to be furnished under subsection 269 (2) in intelligible written form; and

(b) a report reproduced from those records, if it is certified by the Director or the Commission or a member thereof, as the case may be, is, without proof of the office or signature thereof, admissible in evidence to the same extent as the original written records would have been.

Copy in lieu of document

(3) The Director or Commission, as the case may be, is not required to produce any document where a copy of the document is furnished in compliance with clause (2) (a). *New.*

Saving provision

275.—(1) Any provision in articles, by-laws or any special resolution of a corporation that was valid immediately before this Act comes into force and that is not in conformity with this Act continues to be valid and in effect for a period of one year after the date of the coming into force of this section, but any amendment to any such provision shall be made in accordance with this Act.

Deemed amendment

(2) Any provision to which subsection (1) applies that has not been amended in accordance with this Act within the one year period shall be deemed upon the expiry of such period to be amended to the extent necessary to bring the terms of the provision into conformity with this Act.

Amendments

(3) A corporation may, by articles of amendment, change the express terms of any provision in its articles to which subsection (1) applies to conform to the terms of the provision as deemed to be amended by subsection (2).

Idem

(4) A corporation shall not restate its articles under section 172 unless the articles of the corporation are in conformity with this Act and, where the articles have been deemed to be amended under subsection (2), the corporation has amended the express terms of the provisions in its articles in accordance with subsection (3).

(5) A shareholder is not entitled to dissent under section 184 in respect of any amendment made for the purpose only of bringing the provisions of articles into conformity with this Act. *New.* Where s. 184 does not apply

276. The Minister may appoint a Director to carry out the duties and exercise the powers of the Director under this Act. *New.* Appointment of Director

277. The *Business Corporations Act*, being chapter 54 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

278. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

279. The short title of this Act is the *Business Corporations Act, 1982.* Short title

An Act to revise the
Business Corporations Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 6

2

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to revise the Business Corporations Act

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

BILL 6

1982

An Act to revise the Business Corporations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

DEFINITIONS AND APPLICATION

1.—(1) In this Act,

Interpre-
tation

1. “affairs” means the relationships among a corporation, its affiliates and the shareholders, directors and officers of such bodies corporate but does not include the business carried on by such bodies corporate;
2. “affiliate” means an affiliated body corporate within the meaning of subsection (4);
3. “articles” means the original or restated articles of incorporation, articles of amendment, articles of amalgamation, articles of arrangement, articles of continuance, articles of dissolution, articles of reorganization, articles of revival, letters patent, supplementary letters patent, a special Act and any other instrument by which a corporation is incorporated;
4. “associate”, where used to indicate a relationship with any person, means,
 - i. any body corporate of which the person beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding,
 - ii. any partner of that person,

- iii. any trust or estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar capacity,
 - iv. any relative of the person, including his spouse, where the relative has the same home as the person, or
 - v. any relative of the spouse of the person where the relative has the same home as the person;
- 5. “auditor” includes a partnership of auditors;
- 6. “beneficial interest” or “beneficial ownership” includes ownership through a trustee, legal representative, agent or other intermediary;
- 7. “body corporate” means any body corporate with or without share capital and whether or not it is a corporation to which this Act applies;
- 8. “certified copy” means,
 - i. in relation to a document of a corporation, a copy of the document certified to be a true copy by an officer thereof,
 - ii. in relation to a document issued by a court, a copy of the document certified to be a true copy under the seal of the court and signed by the registrar or clerk thereof,
 - iii. in relation to a document in the custody of the Director, a copy of the document certified to be a true copy by the Director and signed by the Director or by such officer of the Ministry as is designated by the regulations;
- 9. “Commission” means the Ontario Securities Commission;
- 10. “corporation” means a body corporate with share capital to which this Act applies;
- 11. “corporation number” means the number assigned by the Director to a corporation in accordance with subsection 8 (1) and “number” in relation to a corporation means the corporation number of that corporation;
- 12. “court” means the High Court of Justice;

13. "day" means a clear day and a period of days shall be deemed to commence the day following the event that began the period and shall be deemed to terminate at midnight of the last day of the period except that if the last day of the period falls on a Sunday or holiday the period shall terminate at midnight of the day next following that is not a Sunday or holiday;
14. "debt obligation" means a bond, debenture, note or other similar obligation or guarantee of such an obligation of a body corporate, whether secured or unsecured;
15. "Director" means the Director appointed under section 276;
16. "director" means a person occupying the position of director of a corporation by whatever name called and "directors" and "board of directors" include a single director;
17. "endorse" includes imprinting a stamp on the face of articles or other document sent to the Director;
18. "financial statement" means a financial statement referred to in section 153;
19. "incorporator" means a person who signs articles of incorporation;
20. "individual" means a natural person, but does not include a partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, or a natural person in his capacity as trustee, executor, administrator or other legal representative;
21. "interim financial statement" means a financial statement referred to in section 159;
22. "liability" includes a debt of a corporation arising under section 36, subsection 184 (27) or clause 247 (3) (f) or (g);
23. "Minister" means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
24. "Ministry" means the Ministry of the Minister;
25. "non-resident corporation" means a corporation incorporated in Canada before the 27th day of April, 1965, and that is not deemed to be resident in Canada for the

purposes of the *Income Tax Act* (Canada) by subsection 250 (4) of that Act;

26. "number name" means the name of a corporation that consists only of its corporation number followed by the word "Ontario" and one of the words or abbreviations provided for in subsection 10 (1);
27. "offering corporation" means a corporation that is offering its securities to the public within the meaning of subsection (6) and that is not the subject of an order of the Commission deeming it to have ceased to be offering its securities to the public;
28. "officer" means an officer designated under section 133 and includes the chairman of the board of directors, a vice-chairman of the board of directors, the president, a vice-president, the secretary, an assistant secretary, the treasurer, an assistant treasurer and the general manager of a corporation, and any other individual designated an officer of a corporation by by-law or by resolution of the directors or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office;
29. "ordinary resolution" means a resolution that is submitted to a meeting of the shareholders of a corporation and passed, with or without amendment, at the meeting by at least a majority of the votes cast;
30. "person" includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;
31. "personal representative", where used with reference to holding shares in that capacity, means an executor, administrator, guardian, tutor, trustee, receiver or liquidator or the committee of or curator to a mentally incompetent person;
32. "prescribed" means prescribed by the regulations;
33. "redeemable share" means a share issued by a corporation,
 - i. that the corporation may purchase or redeem upon the demand of the corporation, or

- ii. that the corporation is required by its articles to purchase or redeem at a specified time or otherwise upon the demand of a shareholder;
- 34. “registered office” means the office of a corporation located at the address specified in its articles or in the notice most recently filed by the corporation under subsection 14 (3);
- 35. “regulations” means the regulations made under this Act;
- 36. “related person”, where used to indicate a relationship with any person, means,
 - i. any spouse, son or daughter of that person,
 - ii. any relative of the person or of his spouse, other than a relative referred to in subparagraph i, who has the same home as the person, or
 - iii. any body corporate of which the person and any of the persons referred to in subparagraph i or ii or the partner or employer of the person, either alone or in combination, beneficially owns, directly or indirectly, voting securities carrying more than 50 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding;
- 37. “resident Canadian” means an individual who is,
 - i. a Canadian citizen ordinarily resident in Canada,
 - ii. a Canadian citizen not ordinarily resident in Canada who is a member of a prescribed class of persons, or
 - iii. a permanent resident within the meaning of the *Immigration Act, 1976* (Canada) and ordinarily resident in Canada, except a permanent resident who has been ordinarily resident in Canada for more than one year after the time at which he first became eligible to apply for Canadian citizenship; 1976-77,
c. 52 (Can.)
- 38. “security” means a share of any class or series of shares or a debt obligation of a body corporate and includes a certificate evidencing such a share or debt obligation;

39. "security interest" means an interest in or charge upon the property of a body corporate by way of mortgage, hypothec, pledge or otherwise, to secure payment of a debt or performance of any other obligation of the body corporate;
40. "send" includes deliver or mail;
41. "senior officer" means,
- i. the chairman of the board of directors, a vice-chairman of the board of directors, the president, a vice-president, the secretary, the treasurer or the general manager of a corporation or any other individual who performs functions for a corporation similar to those normally performed by an individual occupying any such office, and
 - ii. each of the five highest paid employees of a corporation, including any individual referred to in subparagraph i;
42. "series", in relation to shares, means a division of a class of shares;
43. "special resolution" means a resolution that is,
- i. submitted to a special meeting of the shareholders of a corporation duly called for the purpose of considering the resolution and passed, with or without amendment, at the meeting by at least two-thirds of the votes cast, or
 - ii. consented to in writing by each shareholder of the corporation entitled to vote at such a meeting or his attorney authorized in writing;
44. "unanimous shareholder agreement" means an agreement described in subsection 108 (2) or a declaration of a shareholder described in subsection 108 (3);
45. "voting security" means any security other than a debt obligation of a body corporate carrying a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

46. "warrant" means any certificate or other document issued by a corporation as evidence of conversion privileges or options or rights to acquire securities of the corporation. R.S.O. 1980, c. 54, s. 1 (1).

(2) For the purposes of this Act, a body corporate shall be deemed to be a subsidiary of another body corporate if, but only if, Interpretation:
subsidiary
body
corporate

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary.

(3) For the purposes of this Act, a body corporate shall be deemed to be another's holding body corporate if, but only if, that other is its subsidiary. Holding
body
corporate

(4) For the purposes of this Act, one body corporate shall be deemed to be affiliated with another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person. R.S.O. 1980, c. 54, s. 1 (2-4). Affiliated
body
corporate

(5) For the purposes of this Act, a body corporate shall be deemed to be controlled by another person or by two or more bodies corporate if, but only if, Control

(a) voting securities of the first-mentioned body corporate carrying more than 50 per cent of the votes for the election of directors are held, other than by way of security only, by or for the benefit of such other person or by or for the benefit of such other bodies corporate; and

(b) the votes carried by such securities are sufficient, if exercised, to elect a majority of the board of directors of the first-mentioned body corporate. R.S.O. 1980, c. 54, s. 1 (5), *amended*.

(6) For the purposes of this Act, a corporation is offering its securities to the public only where, Offering
securities
to public

R.S.O. 1980,
c. 466

- (a) in respect of any of its securities a prospectus, statement of material facts or securities exchange take-over bid or issuer bid circular has been filed under the *Securities Act* or any predecessor thereof, or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof, so long as any of such securities are outstanding or any securities into which such securities are converted are outstanding; or
- (b) any of its securities have been at any time since the 1st day of May, 1967, listed and posted for trading on any stock exchange in Ontario recognized by the Commission regardless of when such listing and posting for trading commenced,

except that where, upon the application of a corporation that has fewer than fifteen security holders, the Commission is satisfied, in its discretion, that to do so would not be prejudicial to the public interest, the Commission may order, subject to such terms and conditions as the Commission may impose, that the corporation shall be deemed to have ceased to be offering its securities to the public. R.S.O. 1980, c. 54, s. 1 (8).

Execution of
documents

(7) Any articles, notice, resolution, requisition, statement or other document required or permitted to be executed by more than one person for the purposes of this Act may be executed in several documents of like form each of which is executed by one or more of such persons, and such documents, when duly executed by all persons required or permitted, as the case may be, to do so, shall be deemed to constitute one document for the purposes of this Act. *New.*

Application

2.—(1) This Act, except where it is otherwise expressly provided, applies,

- (a) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Upper Canada;
- (b) to every corporation incorporated by or under a general or special Act of the Parliament of the former Province of Canada that has its registered office and carries on business in Ontario; and
- (c) to every corporation incorporated by or under a general or special Act of the Legislature,

but this Act does not apply to a corporation within the meaning of the *Loan and Trust Corporations Act* except as provided by that Act. R.S.O. 1980, c. 54, s. 2 (1), *amended*. R.S.O. 1980,
c. 249

(2) Notwithstanding *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, and subject to subsection 167 (5), this Act applies to a corporation that is a company as defined in that Act but that is not engaged in constructing or operating a railway, street railway or incline railway. *New*. Idem

(3) This Act does not apply to a corporation that, Idem

(a) is a company within the meaning of the *Corporations Act* and has objects in whole or in part of a social nature; R.S.O. 1980,
c. 95

(b) is a corporation to which the *Co-operative Corporations Act* applies; R.S.O. 1980,
c. 91

(c) is a corporation that is an insurer within the meaning of subsection 141 (1) of the *Corporations Act*;

(d) is a corporation to which the *Credit Unions and Caisses Populaires Act* applies. R.S.O. 1980, c. 54, s. 2 (2), *amended*. R.S.O. 1980,
c. 102

PART II

INCORPORATION

3.—(1) Where the practice of a profession is governed by an Act, a corporation may practise the profession only if that Act expressly permits the practice of the profession by a corporation and subject to the provisions of such Act. R.S.O. 1980, c. 54, s. 3 (3), *amended*. Professions

(2) A corporation may be incorporated under this Act with its powers restricted by its articles to lending and investing money on mortgage of real estate or otherwise, or with its powers restricted by its articles to accepting and executing the office of liquidator, receiver, assignee, trustee in bankruptcy or trustee for the benefit of creditors and to accepting the duty of and acting generally in the winding up of corporations, partnerships and estates, other than estates of deceased persons, and shall not by reason thereof be deemed to be a corporation within the meaning of the *Loan and Trust Corporations Act*, but the number of its shareholders, exclusive of persons who are in the employment of the corporation, shall be limited by its articles to five, and no such corporation shall issue debt obligations except to its shareholders, or borrow money on the security of its property except Incor-
poration

from its shareholders, or receive money on deposit or offer its securities to the public. R.S.O. 1980, c. 54, s. 3 (2), *amended*.

Articles of
incorporation

4.—(1) One or more individuals or bodies corporate or any combination thereof may incorporate a corporation by signing articles of incorporation and complying with section 6.

Idem

(2) Subsection (1) does not apply to an individual who,

- (a) is less than eighteen years of age;
- (b) is of unsound mind and has been so found by a court in Canada or elsewhere; or
- (c) has the status of bankrupt. R.S.O. 1980, c. 54, s. 4 (1), *amended*.

Contents of
articles

5.—(1) Articles of incorporation shall follow the prescribed form and shall set out, in respect of the proposed corporation,

- (a) the name of the corporation;
- (b) the municipality or geographic township within Ontario and the address including street name and number, if any, where the registered office is to be located;
- (c) the classes and any maximum number of shares that the corporation is authorized to issue, and
 - (i) if there are to be two or more classes of shares, the rights, privileges, restrictions and conditions attaching to each class of shares, and
 - (ii) if a class of shares may be issued in series, the authority given to the directors to fix the number of shares in, and to determine the designation of, and the rights, privileges, restrictions and conditions attaching to the shares of, each series;
- (d) if the issue, transfer or ownership of shares of the corporation is to be restricted, a statement to that effect and a statement as to the nature of the restriction;
- (e) the number of directors or, subject to section 120, the minimum and maximum number of directors, and, for each director,
 - (i) the surname of the director,
 - (ii) the first or other given name by which the director is commonly known,

- (iii) the first letters of the other given names, if any, of the director,
 - (iv) the address, including the street name and number, if any, of the director's residence, and
 - (v) whether the director is a resident Canadian;
- (f) any restrictions on the business that the corporation may carry on or on the powers that the corporation may exercise;
- (g) for each incorporator who is an individual,
- (i) the surname of the individual,
 - (ii) the first or other given name by which the individual is commonly known,
 - (iii) the first letters of the other given names, if any, of the individual, and
 - (iv) the address including the street name and number, if any, of the individual's residence,
- and for each incorporator that is a body corporate,
- (v) the corporate name, and
 - (vi) the location of its registered office or principal place of business, including the street name and number, if any; and
- (h) any other matter required by this Act or the regulations to be set out in the articles. R.S.O. 1980, c. 54, s. 4 (2), *amended*.

(2) If the articles name as first director an individual who is not an incorporator, his consent, in prescribed form, to act as a first director shall accompany the articles. Where consent required

(3) The articles may set out any provisions permitted by this Act or permitted by law to be set out in the by-laws of the corporation. Provisions in articles

(4) Subject to subsection (5), if a greater number of votes of directors or shareholders are required by the articles or a unanimous shareholder agreement than are required by this Act to effect any action, the provisions of the articles or of the unanimous shareholder agreement prevail. Where articles, etc., prevail

Votes to
remove
director

(5) The articles shall not require a greater number of votes of shareholders to remove a director than the number specified in section 122. *New.*

Certificate of
incorporation

6. An incorporator shall send to the Director articles of incorporation and, upon receipt of the articles, the Director shall endorse thereon, in accordance with section 272, a certificate which shall constitute the certificate of incorporation. R.S.O. 1980, c. 54, s. 5 (2), *amended.*

Certificate of
incorporation

7. A certificate of incorporation is conclusive proof that the corporation has been incorporated under this Act on the date set out in the certificate, except in a proceeding under section 239 to cancel the certificate for cause. R.S.O. 1980, c. 54, s. 5 (3).

Assignment of
number

8.—(1) Every corporation shall be assigned a number by the Director and such number shall be specified as the corporation number in the certificate of incorporation and in any other certificate relating to the corporation endorsed or issued by the Director.

Idem

(2) Where no name is specified in the articles that are delivered to the Director, the corporation shall be assigned a number name.

Idem

(3) Where, through inadvertence or otherwise, the Director has assigned to a corporation a corporation number or number name that is the same as the number or name of any other corporation previously assigned, the Director may, without holding a hearing, issue a certificate of amendment to the articles of the corporation changing the number or name assigned to the corporation and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Idem

(4) Where for any reason the Director has endorsed a certificate on articles that sets out the corporation number incorrectly, the Director may substitute a corrected certificate that bears the date of the certificate it replaces.

Idem

(5) The file number that has been assigned to each corporation by the Minister prior to this section coming into force shall be deemed to be that corporation's number. R.S.O. 1980, c. 54, s. 6, *amended.*

Name
prohibition

9.—(1) Subject to subsection (2), a corporation shall not have a name,

(a) that contains a word or expression prohibited by the regulations;

(b) that is the same as or, except where a number name is proposed, similar to,

(i) the name of a known,

(A) body corporate,

(B) trust,

(C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

(ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship, or individual, carries on business or identifies itself,

if the use of that name would be likely to deceive; or

(c) that does not meet the requirements prescribed by the regulations.

(2) A corporation may have a name described in clause (1) (b) upon complying with conditions prescribed by the regulations. Exception to subs. (1)

(3) There shall be filed with the Director such documents relating to the name of the corporation as may be prescribed by the regulations. Documents filed R.S.O. 1980, c. 54, s. 6, *amended*.

10.—(1) The word “Limited”, “Limitée”, “Incorporated”, “Incorporée”, or “Corporation” or the corresponding abbreviations “Ltd.”, “Ltée”, “Inc.” or “Corp.” shall be part, in addition to any use in a figurative or descriptive sense, of the name of every corporation, but a corporation may be legally designated by either the full or the abbreviated form. Use of “Limited”, “Limitée”, etc.

(2) Subject to the provisions of this Act and the regulations, a corporation may set out its name in its articles in an English form, a French form, an English form and a French form or a combined English and French form and it may be legally designated by any such name. Corporate name

(3) For the purposes of subsections (1) and (2), only letters Idem from the alphabet of the English language or Arabic numerals or

a combination thereof, together with such punctuation marks and other marks as are permitted by regulation, may form part of the name of a corporation.

Idem

(4) Subject to the provisions of this Act and the regulations, a corporation may have in its articles a special provision permitting it to set out its name in any language and the corporation may be legally designated by that name.

Idem

(5) Notwithstanding subsection (4), a corporation shall set out its name in legible characters in all contracts, invoices, negotiable instruments and orders for goods or services issued or made by or on behalf of the corporation and in all documents sent to the Director under this Act. R.S.O. 1980, c. 54, s. 8, *amended*.

Unauthorized
use of
"Limited",
etc.

11.—(1) No person, while not incorporated, shall trade or carry on a business or undertaking under a name in which "Limited", "Incorporated" or "Corporation" or any abbreviation thereof, or any version thereof in another language, is used.

Idem

(2) Where a corporation carries on business or identifies itself to the public by a name or style other than as provided in the articles, that name or style shall not include the word "Limited", "Incorporated", or "Corporation" or any abbreviation thereof or any version thereof in another language. R.S.O. 1980, c. 54, s. 10, *amended*.

Change of
name if
objectionable

12.—(1) If a corporation, through inadvertence or otherwise, has acquired a name contrary to section 9, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the certificate of amendment, the articles are amended accordingly.

Failure to
perform
undertaking

(2) Where an undertaking to dissolve or change its name is given by a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of a certificate of amendment, the articles are amended accordingly.

Idem

(3) Where an undertaking to dissolve or change its name is given by a person who is not a corporation and the undertaking is not carried out within the time specified, the Director may, after giving the corporation that acquired the name by virtue of such undertaking an opportunity to be heard, issue a certificate of amendment to the articles changing the name of the corporation to a name specified in the certificate and, upon the issuance of the

certificate, the articles are amended accordingly. R.S.O. 1980, c. 54, s. 11, *amended*.

13. A corporation may, but need not, have a corporate seal. R.S.O. 1980, c. 54, s. 12 (1), *amended*. Corporate seal

14.—(1) A corporation shall at all times have a registered office in the municipality or geographic township within Ontario specified in its articles. Registered office

(2) The head office of every corporation incorporated prior to the day this Act comes into force shall be deemed to be the registered office of the corporation. Idem

(3) A corporation may by resolution of its directors change the location of its registered office within a municipality or geographic township and shall, within ten days after the passing of the resolution, file a notice of change under the *Corporations Information Act*. Change of address
R.S.O. 1980, c. 96

(4) Failure to comply with subsection (3) does not affect the validity of the resolution. R.S.O. 1980, c. 54, s. 13, *amended*. Validity

15. A corporation has the capacity and the rights, powers and privileges of a natural person. R.S.O. 1980, c. 54, s. 14 (1), *amended*. Corporate powers

16. A corporation has the capacity to carry on its business, conduct its affairs and exercise its powers in any jurisdiction outside Ontario to the extent that the laws of such jurisdiction permit. R.S.O. 1980, c. 54, s. 14 (4), *amended*. Capacity to act outside Ontario

17.—(1) It is not necessary for a by-law to be passed in order to confer any particular power on the corporation or its directors. *New.* Corporate power not dependent on by-law

(2) A corporation shall not carry on any business or exercise any power that it is restricted by its articles from carrying on or exercising, nor shall the corporation exercise any of its powers in a manner contrary to its articles. R.S.O. 1980, c. 54, s. 14 (3), *amended*. Power limited by articles, etc.

(3) Notwithstanding subsection (2) and subsection 3 (2), no act of a corporation including a transfer of property to or by the corporation is invalid by reason only that the act is contrary to its articles, by-laws, a unanimous shareholder agreement or this Act. R.S.O. 1980, c. 54, s. 15 (1), *amended*. Acting outside powers

18. No person is affected by or is deemed to have notice or knowledge of the contents of a document concerning a corporation Where notice is not deemed

by reason only that the document has been filed with the Director or is available for inspection at an office of the corporation. *New.*

Indoor
management
rule

19. A corporation or a guarantor of an obligation of a corporation may not assert against a person dealing with the corporation or with any person who has acquired rights from the corporation that,

- (a) the articles, by-laws or any unanimous shareholder agreement have not been complied with;
- (b) the persons named in the most recent notice filed under the *Corporations Information Act*, or named in the articles, whichever is more current, are not the directors of the corporation;
- (c) the location named in the most recent notice filed under subsection 14 (3) or named in the articles, whichever is more current, is not the registered office of the corporation;
- (d) a person held out by a corporation as a director, an officer or an agent of the corporation has not been duly appointed or does not have authority to exercise the powers and perform the duties that are customary in the business of the corporation or usual for such director, officer or agent;
- (e) a document issued by any director, officer or agent of a corporation with actual or usual authority to issue the document is not valid or not genuine; or
- (f) financial assistance referred to in section 20 or a sale, lease or exchange of property referred to in subsection 183 (3) was not authorized,

R.S.O. 1980,
c. 96

except where the person has or ought to have, by virtue of his position with or relationship to the corporation, knowledge to that effect. *New.*

Financial
assistance by
corporation

20.—(1) Except as permitted under subsection (2), a corporation or any corporation with which it is affiliated, shall not, directly or indirectly, give financial assistance by means of a loan, guarantee or otherwise,

- (a) to any shareholder, director, officer or employee of the corporation or affiliated corporation or to an associate of any such person for any purpose; or

- (b) to any person for the purpose of or in connection with a purchase of a share, or a security convertible into or exchangeable for a share, issued or to be issued by the corporation or affiliated corporation,

where there are reasonable grounds for believing that,

- (c) the corporation is or, after giving the financial assistance, would be unable to pay its liabilities as they become due; or
- (d) the realizable value of the corporation's assets, excluding the amount of any financial assistance in the form of a loan and in the form of any secured guarantee, after giving the financial assistance, would be less than the aggregate of the corporation's liabilities and stated capital of all classes.

(2) A corporation may give financial assistance by means of a ^{Idem} loan, guarantee or otherwise,

- (a) to any person in the ordinary course of business if the lending of money is part of the ordinary business of the corporation;
- (b) to any person on account of expenditures incurred or to be incurred on behalf of the corporation;
- (c) to its holding body corporate if the corporation is a wholly owned subsidiary of the holding body corporate;
- (d) to a subsidiary body corporate of the corporation;
- (e) to employees of the corporation or any of its affiliates,
 - (i) to enable or assist them to purchase or erect living accommodation for their own occupation, or
 - (ii) in accordance with a plan for the purchase of shares of the corporation or any of its affiliates.

(3) A contract made by a corporation in contravention of this section may be enforced by the corporation or by a lender for value in good faith without notice of the contravention. *New.* ^{Validity of contract}

21.—(1) Except as provided in this section, a person who enters into an oral or written contract in the name of or on behalf of a corporation before it comes into existence is personally bound by the contract and is entitled to the benefits thereof. ^{Contract prior to corporate existence}

Adoption of
contract by
corporation

(2) A corporation may, within a reasonable time after it comes into existence, by any action or conduct signifying its intention to be bound thereby, adopt an oral or written contract made before it came into existence in its name or on its behalf, and upon such adoption,

(a) the corporation is bound by the contract and is entitled to the benefits thereof as if the corporation had been in existence at the date of the contract and had been a party thereto; and

(b) a person who purported to act in the name of or on behalf of the corporation ceases, except as provided in subsection (3), to be bound by or entitled to the benefits of the contract.

Non-adoption
of contract

(3) Except as provided in subsection (4), whether or not an oral or written contract made before the coming into existence of a corporation is adopted by the corporation, a party to the contract may apply to a court for an order fixing obligations under the contract as joint or joint and several or apportioning liability between the corporation and the person who purported to act in the name of or on behalf of the corporation, and, upon such application, the court may make any order it thinks fit.

Exception
to subs. (1)

(4) If expressly so provided in the oral or written contract referred to in subsection (1), a person who purported to act in the name of or on behalf of the corporation before it came into existence is not in any event bound by the contract or entitled to the benefits thereof. R.S.O. 1980, c. 54, s. 19, *amended*.

PART III

CORPORATE FINANCE

Shares

22.—(1) Shares of a corporation shall be in registered form and shall be without nominal or par value.

Idem

(2) Shares with nominal or par value of a corporation incorporated before the day this section comes into force shall be deemed to be shares without nominal or par value.

Rights of
shareholders

(3) Where a corporation has only one class of shares, the rights of the holders thereof are equal in all respects and include the rights,

(a) to vote at all meetings of shareholders; and

(b) to receive the remaining property of the corporation upon dissolution.

Idem

(4) The articles may provide for more than one class of shares and where they so provide,

- (a) the rights, privileges, restrictions and conditions attaching to the shares of each class shall be set out therein; and
- (b) each of the rights set out in subsection (3) shall be attached to at least one class of shares, but both such rights are not required to be attached to any one class.

(5) Notwithstanding subsection (4), the right of the holders of a class of shares to one vote for each share at all meetings of shareholders other than meetings of the holders of another class of shares, or to receive the remaining property of the corporation upon dissolution, need not be set out in the articles. R.S.O. 1980, c. 54, s. 23, *amended*. Saving provision

(6) Except as provided in section 25, each share of a class shall be the same in all respects as every other share of that class. R.S.O. 1980, c. 54, s. 27. Shares within a class equal

23.—(1) Subject to the articles, the by-laws, any unanimous shareholder agreement and section 26, shares may be issued at such time and to such persons and for such consideration as the directors may determine. Issuance of shares

(2) Shares issued by a corporation are non-assessable and the holders are not liable to the corporation or to its creditors in respect thereof. *New*. Shares non-assessable

(3) A share shall not be issued until the consideration for the share is fully paid in money or in property or past service that is not less in value than the fair equivalent of the money that the corporation would have received if the share had been issued for money. R.S.O. 1980, c. 54, s. 42 (4), *amended*. Fully-paid shares

(4) The directors shall, in connection with the issue of any share not issued for money, determine, Value determined by directors

(a) the amount of money the corporation would have received if the share had been issued for money; and

(b) either,

(i) the fair value of the property or past service in consideration of which the share is issued, or

(ii) that such property or past service has a fair value that is not less than the amount of money referred to in clause (a).

(5) In determining the value of property or past service, the directors may take into account reasonable charges and expenses of organization and reorganization and payments for property and past service reasonably expected to benefit the corporation. Idem

Interpre-
tation of
property

R.S.C. 1952,
c. 148

(6) For the purposes of subsection (3) and of subsection 24 (3), a document evidencing indebtedness of a person to whom shares are to be issued, or of any other person not dealing at arm's length with such person within the meaning of that term in the *Income Tax Act* (Canada), does not constitute property. *New.*

Separate
capital
account

24.—(1) A corporation shall maintain a separate stated capital account for each class and series of shares it issues.

Idem

(2) A corporation shall add to the appropriate stated capital account in respect of any shares it issues the full amount of the consideration it receives as determined by the directors which, in the case of shares not issued for money, shall be the amount determined by the directors in accordance with clause 23 (4) (a) or, if a determination is made by the directors in accordance with subclause 23 (4) (b) (i), the amount so determined.

Exception to
subs. (2)

(3) Notwithstanding subsection (2) and subsection 23 (3), where a corporation issues shares,

(a) in exchange for,

(i) property of a person who immediately before the exchange does not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada), or

(ii) shares of a body corporate that immediately before the exchange or that, because of the exchange, does not deal with the corporation at arm's length within the meaning of that term in the *Income Tax Act* (Canada); or

(b) under an agreement referred to in subsection 174 (1) or an arrangement referred to in clause 181 (1) (c) or (d) or to shareholders of an amalgamating corporation who receive the shares in addition to or instead of securities of the amalgamated corporation,

the corporation may, subject to subsection (4), add all or any portion of the consideration it received for the shares to the appropriate stated capital account.

Addition to
stated capital
account

(4) On the issue of a share, a corporation shall not add to a stated capital account in respect of the share an amount greater than the amount referred to in subsection (2).

(5) Notwithstanding subsection (2), on the day this Act comes into force or at such time thereafter as a corporation has been continued under this Act, as the case may be, the amount in the stated capital account maintained by a corporation in respect of each class or series of shares then issued shall be equal to the aggregate amount paid up on the shares of each such class or series of shares immediately prior thereto, and, after such time, a corporation may, upon complying with subsection (6), add to the stated capital account maintained by it in respect of any class or series of shares any amount it has credited to a retained earnings or other surplus account.

Stated capital
at time of
coming into
force or
continuance

(6) Where a corporation proposes to add any amount to a stated capital account that it maintains in respect of a class or series of shares otherwise than under subsection 38 (2), the addition to the stated capital account must be approved by special resolution if,

Additions to
stated capital
account

(a) the amount to be added,

- (i) was not received by the corporation as consideration for the issue of shares, or
- (ii) was received by the corporation as consideration for the issue of shares but does not form part of the stated capital attributable to such shares; and

(b) the corporation has outstanding shares of more than one class or series.

(7) Where a class or series of shares of a corporation would be affected by the addition of an amount to any stated capital account under subsection (6) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not such shares otherwise carry the right to vote.

Idem

(8) Stated capital accounts of a corporation may be expressed in one or more currencies.

Expressed in
one or more
currencies

(9) A corporation shall not reduce its stated capital or any stated capital account except in the manner provided in this Act.

Reduction in
stated capital

(10) The provisions of this Act relating to stated capital do not apply to an open-end mutual fund.

Non-applica-
tion of Act

(11) For the purposes of this section, "open-end mutual fund" means an offering corporation that carries on only the business of

Interpretation

investing the consideration it receives for the shares it issues, and all or substantially all the shares of which are redeemable upon the demand of the holders of such shares. R.S.O. 1980, c. 54, s. 31, *amended*.

Special shares
in series

25.—(1) The articles may authorize the issue of any class of shares in one or more series and may authorize the directors to fix the number of shares in, and to determine the designation, rights, privileges, restrictions and conditions attaching to the shares of, each series, subject to the limitations set out in the articles.

Proportionate
abatement

(2) If any amount,

(a) of cumulative dividends, whether or not declared, or declared non-cumulative dividends; or

(b) payable on return of capital in the event of the liquidation, dissolution or winding up of a corporation,

in respect of shares of a series is not paid in full, the shares of the series shall participate rateably with the shares of all other series of the same class in respect of,

(c) all accumulated cumulative dividends, whether or not declared, and all declared non-cumulative dividends; or

(d) all amounts payable on return of capital in the event of the liquidation, dissolution or winding up of the corporation,

as the case may be.

No priority of
shares of same
class

(3) No rights, privileges, restrictions or conditions attached to a series of shares authorized under this section shall confer upon the shares of a series a priority in respect of,

(a) dividends; or

(b) return of capital in the event of the liquidation, dissolution or winding up of the corporation,

over the shares of any other series of the same class. R.S.O. 1980, c. 54, s. 28, *amended*.

Articles
designating
special shares

(4) Before the issue of shares of a series authorized under this section, the directors shall send to the Director articles of amendment in the prescribed form designating such series of shares.

Certificate re
special shares

(5) Upon receipt of articles of amendment designating a series of shares, the Director shall endorse thereon, in accordance with

section 272, a certificate which shall constitute the certificate of amendment. R.S.O. 1980, c. 54, s. 181, *amended*.

26. If it is so provided in the articles or a unanimous shareholder agreement, no shares of a class or series shall be issued unless the shares have first been offered to the shareholders of the corporation holding shares of that class or series or of another class or series on such terms as are provided in the articles or unanimous shareholder agreement. *New.* Pre-emptive rights

27.—(1) A corporation may issue warrants as evidence of conversion privileges or options or rights to acquire securities of the corporation, and shall set out the conditions thereof, Conversion privileges, etc.

(a) in certificates evidencing the securities to which the conversion privileges, options or rights are attached; or

(b) in separate certificates or other documents.

(2) Conversion privileges and options or rights to purchase securities of a corporation may be made transferable or non-transferable, and options or rights to purchase may be made separable or inseparable from any securities to which they are attached. Idem

(3) Where a corporation has granted privileges to convert any securities, other than shares issued by the corporation, into shares of the corporation or has issued or granted options or rights to acquire shares of the corporation and where the articles limit the number of authorized shares, the corporation shall reserve and continue to reserve sufficient authorized shares to meet the exercise of such conversion privileges, options and rights. *New.* Corporation to maintain sufficient reserve

28.—(1) Except as provided in subsection (2) and sections 29 to 32, a corporation, Subsidiaries not to hold shares of holding bodies corporate

(a) shall not hold shares in itself or in its holding body corporate; and

(b) shall not permit any of its subsidiary bodies corporate to hold shares of the corporation.

(2) A corporation shall cause a subsidiary body corporate of the corporation that holds shares of the corporation to sell or otherwise dispose of those shares within five years from, Disposal of shares

(a) the date the body corporate became a subsidiary of the corporation; or

- (b) if the subsidiary held such shares on the 30th day of April, 1954, and has continued from that date to hold such shares, the coming into force of this Act. R.S.O. 1980, c. 54, s. 46, *part.*

Exception to
s. 28

29.—(1) A corporation may in the capacity of a legal representative hold shares in itself or in its holding body corporate unless it or the holding body corporate or a subsidiary of either of them has a beneficial interest in the shares.

Idem

(2) A corporation may permit a subsidiary body corporate to hold shares of the corporation in the capacity of a legal representative unless the corporation or the subsidiary body corporate or a subsidiary of either of them has a beneficial interest in the shares.

Idem

(3) A corporation may hold shares in itself or in its holding body corporate by way of security for the purposes of a transaction entered into by it in the ordinary course of a business that includes the lending of money. R.S.O. 1980, c. 54, s. 46.

Exception
relating to
Canadian
ownership

(4) A corporation may, for the purpose of assisting the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control, hold shares in itself that,

(a) are not restricted for the purpose of assisting the corporation or any of its affiliates or associates to so qualify; or

(b) are shares into which shares held under clause (a) were converted by the corporation that are restricted for the purpose of assisting the corporation to so qualify and that were not previously held by the corporation.

Prohibited
transfers

(5) A corporation shall not transfer shares held under subsection (4) to any person unless the corporation is satisfied, on reasonable grounds, that the ownership of the shares as a result of the transfer would assist the corporation or any of its affiliates or associates to achieve the purpose set out in subsection (4).

Where
shares are
transferred

(6) Where shares held under subsection (4) are transferred by a corporation, subsections 23 (1), (3), (4), (5) and (6), clause 127 (3) (c) and subsection 130 (1) apply, with such modifications as the circumstances require, in respect of the transfer as if the transfer were an issue.

Transfer
not void

(7) No transfer of shares by a corporation shall be void or voidable solely because the transfer is in contravention of subsection (5).

(8) A corporation holding shares in itself or in its holding body corporate or a subsidiary body corporate of a corporation holding shares of the corporation shall not vote or permit those shares to be voted unless the corporation or subsidiary body corporate, as the case may be, Corporation holding shares in itself

(a) holds the shares in the capacity of a legal representative; and

(b) has complied with section 48 of the *Securities Act* where that section is applicable. *New.* R.S.O. 1980, c. 466

30.—(1) Subject to subsection (2) and to its articles, a corporation may purchase or otherwise acquire any of its issued shares or warrants. Purchase of issued shares permitted

(2) A corporation shall not make any payment to purchase or otherwise acquire shares issued by it if there are reasonable grounds for believing that, Where prohibited

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,

(i) its liabilities, and

(ii) its stated capital of all classes. R.S.O. 1980, c. 54, s. 38.

31.—(1) Notwithstanding subsection 30 (2) but subject to subsection (3) of this section and to its articles, a corporation may purchase or otherwise acquire shares issued by it to, Where s. 30 (2) does not apply

(a) settle or compromise a debt or claim asserted by or against the corporation;

(b) eliminate fractional shares; or

(c) fulfil the terms of a non-assignable agreement under which the corporation has an option or is obliged to purchase shares owned by a current or former director, officer or employee of the corporation.

Idem

(2) Notwithstanding subsection 30 (2), a corporation may purchase or otherwise acquire shares issued by it to,

(a) satisfy the claim of a shareholder who dissents under section 184; or

(b) comply with an order under section 247.

Restriction on payment

(3) A corporation shall not make any payment to purchase or acquire under subsection (1) shares issued by it if there are reasonable grounds for believing that,

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,

(i) its liabilities, and

(ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, prior to the holders of the shares to be purchased or acquired.
R.S.O. 1980, c. 54, s. 38, *amended*.

Redemption of shares

32.—(1) Notwithstanding subsection 30 (2) and subsection 31 (3), but subject to subsection (2) and to its articles, a corporation may purchase or redeem any redeemable shares issued by it at prices not exceeding the redemption price thereof stated in the articles or calculated according to a formula stated in the articles.

Restriction on redemption

(2) A corporation shall not make any payment to purchase or redeem any redeemable shares issued by it if there are reasonable grounds for believing that,

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) after the payment, the realizable value of the corporation's assets would be less than the aggregate of,

(i) its liabilities, and

- (ii) the amount that would be required to pay the holders of shares who have a right to be paid, on a redemption or in a liquidation, rateably with or prior to the holders of the shares to be purchased or redeemed. *New.*

33. A corporation may accept from any shareholder a share of the corporation surrendered to it as a gift, but may not extinguish or reduce a liability in respect of an amount unpaid on any such share except in accordance with section 34. R.S.O. 1980, c. 54, s. 41, *amended*. Donation of share

34.—(1) Subject to subsection (4), a corporation may by special resolution, Reduction of liability re unpaid share: stated capital

- (a) extinguish or reduce a liability in respect of an amount unpaid on any share; or

- (b) reduce its stated capital for any purpose including, without limiting the generality of the foregoing, for the purpose of,

- (i) distributing to the holders of issued shares of any class or series of shares an amount not exceeding the stated capital of the class or series, or

- (ii) declaring its stated capital to be reduced by,

- (A) an amount that is not represented by realizable assets, or

- (B) an amount otherwise determined in respect of which no amount is to be distributed to holders of issued shares of the corporation.

(2) Where a class or series of shares of a corporation would be affected by a reduction of stated capital under clause (1) (b) in a manner different from the manner in which any other class or series of shares of the corporation would be affected by such action, the holders of the differently affected class or series of shares are entitled to vote separately as a class or series, as the case may be, on the proposal to take the action, whether or not the shares otherwise carry the right to vote. Right to vote where reduction under subs. (1)

- Account to be reduced specified (3) A special resolution under this section shall specify the stated capital account or accounts from which the reduction of stated capital effected by the special resolution will be made.
- Restriction on reduction (4) A corporation shall not take any action to extinguish or reduce a liability in respect of an amount unpaid on a share or to reduce its stated capital for any purpose other than the purpose mentioned in sub-subclause (1) (b) (ii) (A) if there are reasonable grounds for believing that,
- (a) the corporation is or, after the taking of such action, would be unable to pay its liabilities as they become due; or
 - (b) after the taking of such action, the realizable value of the corporation's assets would be less than the aggregate of its liabilities.
- Application for order where improper reduction (5) A creditor of a corporation is entitled to apply to the court for an order compelling a shareholder or other recipient,
- (a) to pay to the corporation an amount equal to any liability of the shareholder that was extinguished or reduced contrary to this section; or
 - (b) to pay or deliver to the corporation any money or property that was paid or distributed to the shareholder or other recipient as a consequence of a reduction of capital made contrary to this section.
- Time limitation (6) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the action complained of. *New.*
- Class action (7) Where it appears that there are numerous shareholders who may be liable under this section, the court may permit an action to be brought against one or more of them as representatives of the class and, if the plaintiff establishes his claim as creditor, may make an order of reference and add as parties in the referee's office all such shareholders as may be found, and the referee shall determine the amount that each should contribute towards the plaintiff's claim, which amount may not, in the case of any particular shareholder, exceed the amount referred to in subsection (5), and the referee may direct payment of the sums so determined. R.S.O. 1980, c. 54, s. 101 (4), *amended.*

(8) No person holding shares in the capacity of a personal representative and registered on the records of the corporation as a shareholder and therein described as the personal representative of a named person is personally liable under this section, but the person named is subject to all liabilities imposed by this section. R.S.O. 1980, c. 54, s. 101 (5), *amended*.

Shareholder
holding shares
in fiduciary
capacity

(9) This section does not affect any liability that arises under section 130. *New*.

s. 130,
does not apply

35.—(1) Upon a purchase, redemption or other acquisition by a corporation under section 30, 31, 32, 40 or 184 or clause 247 (3) (f) of shares or fractions thereof issued by it, the corporation shall deduct from the stated capital account maintained for the class or series of shares of which the shares purchased, redeemed or otherwise acquired form a part, an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series or fractions thereof purchased, redeemed or otherwise acquired, divided by the number of issued shares of that class or series immediately before the purchase, redemption or other acquisition.

Amount
deducted from
account upon
purchase, etc.,
of shares

(2) A corporation shall deduct the amount of a payment made by the corporation to a shareholder under clause 247 (3) (g) from the stated capital account maintained for the class or series of shares in respect of which the payment was made.

Idem

(3) A corporation shall adjust its stated capital account or accounts in accordance with any special resolution referred to in subsection 34 (3).

Adjustment
in stated
capital account

(4) Upon a change under section 167, 185 or 247 of issued shares of a corporation, or upon a conversion of such shares pursuant to their terms, into shares of another class or series, the corporation shall,

Idem

(a) deduct from the stated capital account maintained for the class or series of shares changed or converted an amount equal to the result obtained by multiplying the stated capital of the shares of that class or series by the number of shares of that class or series changed or converted, and dividing by the number of issued shares of that class or series immediately before the change or conversion; and

(b) add the result obtained under clause (a) and any additional consideration received pursuant to the change or conversion to the stated capital account maintained or to

be maintained for the class or series of shares into which the shares have been changed or converted.

Idem

(5) For the purpose of subsection (4) and subject to its articles, where a corporation issues two classes or series of shares and there is attached to each class or series a right to convert a share of the one class or series into a share of the other class or series, the amount of stated capital attributable to a share in either class or series is the amount obtained when the sum of the stated capital of both classes or series of shares is divided by the number of issued shares of both classes or series of shares immediately before the conversion.

Status of shares
purchased, etc.

(6) Shares of any class or series or fractional shares issued by a corporation and purchased, redeemed or otherwise acquired by it shall be cancelled or, if the articles limit the number of authorized shares of the class or series, may be restored to the status of authorized but unissued shares of the class.

Interpretation

(7) For the purposes of this section,

(a) a corporation holding shares in itself as permitted by subsections 29 (1) and (2) shall be deemed not to have purchased, redeemed or otherwise acquired the shares; and

(b) a corporation holding shares in itself under clause 29 (4) (a) shall be deemed not to have purchased, redeemed or otherwise acquired the shares at the time they were acquired, but,

(i) any of those shares that are held by the corporation at the expiration of two years, and

(ii) any shares into which any of those shares were converted by the corporation and held under clause 29 (4) (b) that are held by the corporation at the expiration of two years after the shares from which they were converted were acquired,

shall be deemed to have been acquired at the expiration of the two years.

Conversion of
shares

(8) Where shares of a class or series are changed under section 167, 185 or 247, or converted pursuant to their terms, into the same or another number of shares of another class or series, such shares become the same in all respects as the shares of the class or series respectively into which they are changed or converted and, if the articles limit the number of shares of either of such classes or

series, the number of authorized shares of such class or series is changed and the articles are amended accordingly. R.S.O. 1980, c. 54, s. 35 (5), *amended*.

36.—(1) A contract with a corporation providing for the purchase of shares of the corporation by the corporation is specifically enforceable against the corporation except to the extent that the corporation cannot perform the contract without thereby being in breach of section 30 or 31. Contract with corporation re purchase of its shares

(2) In any action brought on a contract referred to in subsection (1), the corporation has the burden of proving that performance thereof is prevented by section 30 or 31. Idem

(3) Until the corporation has fully performed a contract referred to in subsection (1), the other party to the contract retains the status of a claimant entitled to be paid as soon as the corporation is lawfully able to do so or in a liquidation to be ranked subordinate to the rights of creditors but in priority to the other shareholders. Idem
New.

37. The directors may authorize the corporation to pay a reasonable commission to any person in consideration of his purchasing or agreeing to purchase shares of the corporation from the corporation or from any other person, or procuring or agreeing to procure purchasers for any such shares. R.S.O. 1980, c. 54, s. 43 (1), *amended*. Commission on sale of shares

38.—(1) The directors may declare and a corporation may pay a dividend by issuing fully paid shares of the corporation or options or rights to acquire fully paid shares of the corporation and, subject to subsection (3), a corporation may pay a dividend in money or property. R.S.O. 1980, c. 54, s. 146 (2), *amended*. Declaration of dividends

(2) If shares of a corporation are issued in payment of a dividend, the corporation shall add to the stated capital account maintained or to be maintained for the shares of the class or series issued in payment of the dividend the declared amount of the dividend stated as an amount of money. R.S.O. 1980, c. 54, s. 148, *amended*. Stock dividend

(3) The directors shall not declare and the corporation shall not pay a dividend if there are reasonable grounds for believing that, When dividend not to be declared

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets would thereby be less than the aggregate of,

(i) its liabilities, and

(ii) its stated capital of all classes. R.S.O. 1980, c. 54, s. 146 (1, 3), *amended*.

Corporations
with wasting
assets

39.—(1) Notwithstanding anything in this Act, a corporation,

(a) that for the time being carries on as its principal business the business of operating a producing mining, gas or oil property owned and controlled by it;

(b) at least 75 per cent of the assets of which are of a wasting character; or

(c) incorporated for the purpose of acquiring the assets or a substantial part of the assets of a body corporate and administering such assets for the purpose of converting them into cash and distributing the cash among the shareholders of the corporation,

may declare and pay dividends out of the funds derived from the operations of the corporation.

Extent of
impairment of
capital

(2) The powers conferred by subsection (1) may be exercised notwithstanding that the value of the net assets of the corporation may be thereby reduced to less than its stated capital of all classes if the payment of the dividends does not reduce the value of its remaining assets to an amount insufficient to meet all the liabilities of the corporation, exclusive of its stated capital of all classes. R.S.O. 1980, c. 54, s. 147 (1, 2).

Special
resolution

(3) The powers conferred by subsection (1) may be exercised only under the authority of a special resolution. R.S.O. 1980, c. 54, s. 147 (3), *amended*.

Lien on share

40.—(1) Subject to subsection 56 (3), the articles or by-laws may provide that the corporation has a lien on a share registered in the name of a shareholder or his legal representative for a debt of that shareholder to the corporation.

Where subs. (1)
does not apply

(2) Subsection (1) does not apply to a corporation that has shares listed on a stock exchange recognized by the Commission.

Enforcement of
lien

(3) A corporation may enforce a lien referred to in subsection (1) in accordance with its articles or by-laws. R.S.O. 1980, c. 54, s. 45 (3), *amended*.

Shares personal
property

41. The shares of a corporation are personal property. R.S.O. 1980, c. 54, s. 44.

42.—(1) A corporation shall not impose restrictions on the issue, transfer, or ownership of shares of any class or series except such restrictions as are authorized by its articles. Restrictions on issue, transfer, etc.

(2) A corporation that has imposed restrictions on the issue, transfer, or ownership of its shares of any class or series shall not offer any of its shares to the public unless the restrictions are necessary, No public offer if issue, transfer, etc., restricted—exceptions

(a) by or under any Act of Canada or Ontario as a condition to the obtaining, holding or renewal of authority to engage in any activity necessary to its undertaking;

(b) for the purpose of achieving or preserving its status as a Canadian corporation for the purpose of any Act of Canada or Ontario;

(c) to limit to a specified level the ownership of its shares by any person for the purpose of assisting the corporation or any of its affiliates or associates to qualify under the *Securities Act* or similar legislation of a province or territory to obtain, hold or renew registration as a dealer, or to qualify for membership in a stock exchange in Ontario recognized as such by the Commission; or R.S.O. 1980, c. 466

(d) to attain or to maintain a specified level of Canadian ownership or control for the purpose of assisting the corporation or any of its affiliates or associates to qualify to receive licences, permits, grants, payments or other benefits under any prescribed Act of Canada or a province or ordinance of a territory.

(3) Nothing in clause (2) (d) authorizes a corporation to impose restrictions on the issue, transfer or ownership of shares of any class or series of which any shares are outstanding unless the shares are already subject to restrictions described in clause (2) (d). Application of subs. (2) (d) limited R.S.O. 1980, c. 54, s. 45 (1, 2), *amended*.

(4) A corporation may, Idem

(a) limit the number of its shares that may be owned; or

(b) prohibit the ownership of shares,

by any person whose ownership would adversely affect the ability of the corporation or any of its affiliates or associates to attain or maintain a level of Canadian ownership or control specified in its articles that equals or exceeds a specified level referred to in clause (2) (d). *New*.

43. Nothing in this Act prohibits the issue of debt obligations in bearer form. Bearer debt obligations R.S.O. 1980, c. 54, s. 52.

Irredeemable
debt obligation

44.—(1) A condition contained in a debt obligation or in an instrument for securing a debt obligation is not invalid by reason only that the debt obligation is thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long. R.S.O. 1980, c. 54, s. 53.

Debt
obligations

(2) Debt obligations issued, pledged, hypothecated or deposited by a corporation are not redeemed by reason only that the indebtedness evidenced by the debt obligations or in respect of which the debt obligations are issued, pledged, hypothecated or deposited is repaid.

Idem

(3) Debt obligations issued by a corporation and purchased, redeemed or otherwise acquired by it may be cancelled or, subject to any applicable trust indenture or other agreement, may be reissued, pledged or hypothecated to secure any obligation of the corporation then existing or thereafter incurred, and any such acquisition and reissue, pledge or hypothecation is not a cancellation of the debt obligations. *New.*

PART IV

SALE OF RESTRICTED SHARES

Restricted
shares held
in contra-
vention—
sale by
corporation

45.—(1) A corporation that has restrictions on the issue, transfer or ownership of its shares of any class or series in order to assist the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control may, for that purpose or for the purpose of attaining or maintaining a level of Canadian ownership or control specified in its articles, under such conditions and after giving such notice as may be prescribed, sell, as if it were the owner thereof, any of the restricted shares that are owned, or that the directors determine in such manner as may be prescribed may be owned, contrary to the restrictions.

Obligations
of directors
in sale

(2) Where shares are to be sold by a corporation under subsection (1), the directors of the corporation shall select the shares for sale in good faith and in a manner that is not unfairly prejudicial to, and does not unfairly disregard the interests of, the holders of the shares in the restricted class or series taken as a whole.

Effect of
sale

(3) Where shares are sold by a corporation under subsection (1), the owner of the shares immediately prior to the sale shall, by that sale, be divested of his interest in the shares, and the person who, but for the sale, would be the registered holder of the shares or a person who satisfies the corporation that, but for the sale, he could properly be treated as the registered holder of the shares

under section 67 shall, from the time of the sale, be entitled to receive only the net proceeds of the sale, together with any income earned thereon from the beginning of the month next following the date of the receipt by the corporation of the proceeds of the sale, less any taxes thereon and any costs of administration of a trust fund constituted under subsection (5) in relation thereto.

(4) Subsections 67 (4), (5) and (6) apply in respect of the person who is entitled under subsection (3) to receive the proceeds of a sale of shares under subsection (1) as if the proceeds were a security and the person were a registered holder of the security. s. 67 (4-6) apply

(5) The proceeds of a sale by a corporation under subsection (1) constitute a trust fund in the hands of the corporation for the benefit of the person entitled under subsection (3) to receive the proceeds of the sale, and any such trust fund may be commingled by the corporation with other such trust funds and shall be invested in such manner as may be prescribed. Proceeds of sale to be trust fund

(6) Reasonable costs of administration of a trust fund referred to in subsection (5) may be deducted from the trust fund and any income earned thereon. Cost of administration

(7) Subject to this section, a corporation may transfer any trust fund referred to in subsection (5) and the administration thereof, to a trust company in Canada registered as such under the laws of Canada, a province or a territory, and the corporation is thereupon discharged of all further liability in respect of the trust fund. Appointment of trust company

(8) A receipt signed by a person entitled under subsection (3) to receive the proceeds of a sale that constitute a trust fund under subsection (5) shall be a complete discharge of the corporation and of any trust company to which a trust fund is transferred under subsection (7), in respect of the trust fund and income earned thereon paid to the person. Discharge of corporation and trust company

(9) A trust fund described in subsection (5) together with any income earned thereon, less any taxes thereon and costs of administration, that has not been claimed, by a person entitled under subsection (3) to receive the proceeds of a sale that constitute the trust fund for a period of ten years after the date of the sale is forfeited to the Crown. *New.* Forfeit to Crown

PART V

INDENTURE TRUSTEES

46.—(1) In this Part,

Interpretation

(a) “event of default” means an event specified in a trust indenture on the occurrence of which,

- (i) a security interest constituted by the trust indenture becomes enforceable, or
- (ii) the principal, interest and other moneys payable thereunder become or may be declared to be payable before the date of maturity,

but the event is not an event of default until all conditions prescribed by the trust indenture in connection with such event for the giving of notice or the lapse of time or otherwise have been satisfied;

- (b) "trust indenture" means any deed, indenture or other instrument, including any supplement or amendment thereto, made by a body corporate under which the body corporate issues or guarantees debt obligations and in which a person is appointed as trustee for the holders of the debt obligations issued or guaranteed thereunder;
- (c) "trustee" means any person appointed as trustee under the terms of a trust indenture to which a body corporate is a party and includes any successor trustee, whether or not the person is a trust company authorized to carry on business in Ontario. R.S.O. 1980, c. 54, s. 55 (1), *amended*.

Application of
this Part

(2) This Part applies to a trust indenture, whether entered into before or after the day on which this Act comes into force, if, in respect of any debt obligations outstanding or guaranteed thereunder or to be issued or guaranteed thereunder, a prospectus or securities exchange issuer or take-over bid circular has been filed under the *Securities Act* or any predecessor thereof or in respect of which a prospectus has been filed under *The Corporations Information Act*, being chapter 72 of the Revised Statutes of Ontario, 1960, or any predecessor thereof. R.S.O. 1980, c. 54, s. 55 (2), *amended*.

R.S.O. 1980,
c. 466

Resident
trustee

(3) The person appointed as trustee under a trust indenture, or at least one of such persons if more than one is so appointed, shall be resident or authorized to do business in Ontario. R.S.O. 1980, c. 54, s. 55 (3).

Exemption by
Commission

(4) Where, upon the application of a body corporate incorporated otherwise than under the laws of Canada, a province or a territory, the Commission is satisfied that to do so would not be prejudicial to the public interest, the Commission may exempt, subject to such terms and conditions as the Commission may impose, a trust indenture from this Part. *New*.

Duty of trustee

47.—(1) A trustee in exercising his powers and discharging his duties shall,

(a) act honestly and in good faith with a view to the best interests of the holders of the debt obligations issued under the trust indenture; and

(b) exercise the care, diligence and skill of a reasonably prudent trustee.

(2) No term of a trust indenture or of any agreement between a trustee and the holders of debt obligations issued thereunder or between the trustee and the issuer or guarantor shall operate so as to relieve a trustee from the duties imposed upon him in subsection (1). R.S.O. 1980, c. 54, s. 56, *amended*. Exculpatory clauses

48.—(1) No person shall be appointed as trustee if there is a material conflict of interest between his role as trustee and his role in any other capacity. Conflict of interest

(2) A trustee shall, within ninety days after he becomes aware that a material conflict of interest exists, Idem

(a) eliminate such conflict of interest; or

(b) resign from office.

(3) If, notwithstanding the provisions of this section, a trustee has a material conflict of interest, the validity and enforceability of the trust indenture under which the trustee has been appointed, of the security interest constituted by or under such trust indenture and of the securities issued under such trust indenture are not affected in any manner whatsoever by reason only of the existence of such material conflict of interest. Validity not affected

(4) If a trustee contravenes subsection (1) or (2), any interested person may apply to the court for an order that the trustee be replaced, and the court may make an order on such terms as it thinks fit. R.S.O. 1980, c. 54, s. 57, *amended*. Replacing trustee

49.—(1) An issuer or a guarantor of debt obligations issued or to be issued under a trust indenture, before doing any act referred to in clause (a), (b), (c) or (d), shall furnish the trustee with evidence of compliance with the conditions in the trust indenture relating to, Evidence of compliance

(a) the issue, certification and delivery of debt obligations under the trust indenture;

(b) the release or release and substitution of property subject to a security interest constituted by the trust indenture;

(c) the satisfaction and discharge of the trust indenture; or

- (d) the taking of any other action to be taken by the trustee at the request of or on the application of the issuer or guarantor.

Idem

(2) Evidence of compliance as required by subsection (1) shall consist in each case of,

- (a) a statutory declaration or certificate made by a director or an officer of the issuer or guarantor stating that the conditions referred to in that section have been complied with in accordance with the terms of the trust indenture; and
- (b) where the trust indenture requires compliance with conditions that are subject to review,

- (i) by legal counsel, an opinion, and

- (ii) by an auditor or accountant, an opinion or report of the auditor of the issuer or guarantor, or any accountant licensed under the *Public Accountancy Act* or comparable legislation of the jurisdiction in which the accountant practises, based on the examinations or enquiries required to be made under the trust indenture,

R.S.O. 1980,
c. 405

in each case approved by the trustee, that the conditions have been complied with in accordance with the terms of the trust indenture.

Idem

(3) The evidence of compliance referred to in subsection (2) shall include a statement by the person giving the evidence,

- (a) declaring that he has read and understands the conditions of the trust indenture described in subsection (1);
- (b) describing the nature and scope of the examination or investigation upon which he based the statutory declaration, certificate, opinion or report; and
- (c) declaring that he has made such examination or investigation as he believes necessary to enable him to make the statements or give the opinions contained or expressed therein.

Certificate of
issuer or
guarantor

(4) At least once in each twelve-month period beginning on the date debt obligations are first issued under the trust indenture and at any other reasonable time upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with a certificate that the issuer or guarantor has complied with all requirements contained in the

trust indenture that, if not complied with, would, with the giving of notice, lapse of time or otherwise, constitute an event of default, or, if there has been failure to so comply, giving particulars thereof.

(5) Upon the demand of a trustee, the issuer or guarantor of debt obligations issued under a trust indenture shall furnish the trustee with evidence in such form as the trustee may require as to compliance with any condition therein relating to any action required or permitted to be taken by the issuer or guarantor under the trust indenture or as a result of any obligation imposed by the trust indenture. Evidence of compliance

(6) A trustee is not in contravention of subsection 47 (1) if he relies in good faith upon statements contained in a statutory declaration, certificate, opinion or report that complies with this Act or the trust indenture. R.S.O. 1980, c. 54, s. 58. Reliance on opinions

50. A trustee under a trust indenture and any related person to the trustee shall not be appointed a receiver or receiver and manager or liquidator of the assets or undertaking of the issuer or guarantor of the debt obligations under the trust indenture. R.S.O. 1980, c. 54, s. 59. Trustee not to be receiver

51.—(1) The trustee shall be required to give to the holders of debt obligations issued under the trust indenture, within a reasonable time but not exceeding thirty days after the trustee becomes aware of the occurrence thereof, notice of every event of default arising under the trust indenture unless the trustee in good faith determines that the withholding of the notice is in the best interests of the holders of the debt obligations and so advises the issuer or guarantor in writing. R.S.O. 1980, c. 54, s. 60. Notice of events of default

(2) Where notice of the occurrence of an event of default under a trust indenture is given under subsection (1) and the default is thereafter cured, notice that the default is no longer continuing shall be given by the trustee to the holders of the debt obligations within a reasonable time, but not exceeding thirty days, after the trustee becomes aware that the default has been cured. *New.* Idem

52.—(1) Any person, upon payment to a trustee of a reasonable fee therefor, may require the trustee to furnish, within ten days after delivering to the trustee the statutory declaration referred to in subsection (3), a list setting out, Where list of debt obligation holders to be furnished

- (a) the names and addresses of the registered holders of the outstanding debt obligations;
- (b) the principal amount of outstanding debt obligations owned by each such holder; and

- (c) the aggregate principal amount of debt obligations outstanding,

as shown on the records maintained by the trustee on the day that the statutory declaration is delivered to the trustee.

Information
to be
furnished
to trustee

- (2) Upon the demand of a trustee, the issuer of debt obligations shall furnish the trustee with the information required to enable the trustee to comply with subsection (1).

Statutory
declaration

- (3) The statutory declaration required under subsection (1) shall state,

- (a) the name and address of the person requiring the trustee to furnish the list and, if the person is a body corporate, the address for service thereof; and
- (b) that the list will not be used except as permitted under subsection (5).

Idem

- (4) If the person requiring the trustee to furnish a list under subsection (1) is a body corporate, the statutory declaration required under that subsection shall be made by a director or officer of the body corporate.

Use of list

- (5) No person shall use a list obtained under this section except in connection with,

- (a) an effort to influence the voting of the holders of debt obligations;
- (b) an offer to acquire debt obligations; or
- (c) any other matter relating to the debt obligations or the affairs of the issuer or guarantor thereof. *New.*

PART VI

INVESTMENT SECURITIES

Interpretation

53.—(1) In this Part,

- (a) “adverse claim” includes a claim that a transfer is or would be unauthorized or wrongful or that a particular adverse person is the owner of or has an interest in the security;
- (b) “appropriate person”, when used to refer to a person endorsing a security, means,

- (i) the person specified by the security or by special endorsement to be entitled to the security,
 - (ii) where the person so specified is described as a trustee or other fiduciary but is no longer serving in that capacity and notwithstanding that a successor has been appointed or qualified,
 - (A) where only one person is so described, that person or his successor, or
 - (B) where more than one person is so described, the remaining persons,
 - (iii) where the person so specified is an individual and is without capacity to act by virtue of death, incompetence, infancy or otherwise, his executor, administrator, committee, guardian or like fiduciary,
 - (iv) where the security or endorsement specified more than one person as joint tenants or with right of survivorship and by reason of death all cannot sign, the survivor or survivors,
 - (v) a person having the power to sign under the applicable law or controlling instrument, or
 - (vi) to the extent any of the foregoing persons may act through an agent, his authorized agent;
- (c) "bearer form" when applied to a security means a security that is payable to bearer according to its terms and not by reason of any endorsement;
- (d) "*bona fide* purchaser" means a purchaser for value in good faith and without notice of any adverse claim who takes delivery of a security in bearer form or order form or of a security in registered form issued to him or endorsed to him or endorsed in blank;
- (e) "broker" means a person engaged for all or part of his time in the business of buying and selling securities and who, in the transaction concerned, acts for or buys a security from or sells a security to a customer;
- (f) "clearing corporation" means a body corporate recognized as a clearing corporation by the Commission;

1980-81,
c. 40 (Can.)

R.S.O. 1980,
c. 249

- (g) “custodian” means a bank to which the *Bank Act* (Canada) applies, a trust company registered under the *Loan and Trust Corporations Act* or such other body corporate as may be recognized by the Commission as a custodian and that is acting as custodian for a clearing corporation;
- (h) “delivery” means voluntary transfer of possession;
- (i) “fiduciary” means a trustee, guardian, committee, curator, tutor, executor, administrator or representative of a deceased person, or any other person acting in a fiduciary capacity;
- (j) “fungible” in relation to securities means securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit;
- (k) “genuine” means free of forgery or counterfeiting;
- (l) “good faith” means honesty in fact in the conduct of the transaction concerned;
- (m) “holder” means a person in possession of a security issued or endorsed to him or to bearer or in blank;
- (n) “issuer” means a body corporate,
 - (i) that is required by this Act to maintain a securities register,
 - (ii) that directly or indirectly creates fractional interests in its rights or property and that issues securities as evidence of such fractional interests,
 - (iii) that places or authorizes the placing of its name on a security, otherwise than as an authenticating trustee, registrar or transfer agent, to evidence that it represents a share, participation or other interest in its property or in an enterprise or to evidence its duty to perform an obligation evidenced by the security, or
 - (iv) that becomes responsible for or in place of any other person described as an issuer in this Part;
- (o) “noted conspicuously” and “appearing conspicuously” mean written in such a way that the person against whom words so noted or appearing are to operate ought reasonably to notice them;

- (*p*) “order form” when applied to a security means a security that is payable to the order or assigns of any person therein specified with reasonable certainty or to such person or such person’s order;
- (*q*) “overissue” means the issue of securities in excess of any maximum number of securities that the issuer is authorized by its articles or a trust indenture to issue;
- (*r*) “proper form” means regular on its face with regard to all formal matters;
- (*s*) “purchaser” means a person who takes by sale, mortgage, hypothec, pledge, issue, reissue, gift or any other voluntary transaction creating an interest in a security;
- (*t*) “registered form” when applied to a security means a security that,
 - (i) specifies a person entitled to the security or to the rights it evidences, and the transfer of which is capable of being recorded in a securities register, or
 - (ii) bears a statement that it is in registered form;
- (*u*) “security” or “security certificate” means an instrument issued by a body corporate that is,
 - (i) in bearer, order or registered form,
 - (ii) of a type commonly dealt in upon securities exchanges or markets or commonly recognized in any area in which it is issued or dealt in as a medium for investment,
 - (iii) one of a class or series or by its terms divisible into a class or series of instruments, and
 - (iv) evidence of a share, participation or other interest in or obligation of the body corporate;
- (*v*) “transfer” includes transmission by operation of law;
- (*w*) “trust indenture” means a trust indenture as defined in Part V;
- (*x*) “unauthorized” when used with reference to a signature or an endorsement means one made without authority,

actual, apparent or of any other type and includes a forgery;

- (y) “valid” means issued in accordance with the applicable law and the articles of the issuer or validated under section 58. R.S.O. 1980, c. 54, s. 61 (1), *amended*.

Application of
this Part
R.S.C. 1970,
c. B-5

- (2) This Part does not apply to a promissory note or bill of exchange to which the *Bills of Exchange Act* (Canada) applies. R.S.O. 1980, c. 54, s. 61 (2).

Security as
negotiable
instrument

- (3) Except where its transfer is restricted and noted on a security in accordance with subsection 56 (3), a security is a negotiable instrument. *New*.

Share
certificates

54.—(1) Every security holder is entitled at his option to a security certificate in respect of the securities held by him that complies with this Act or to a non-transferable written acknowledgement of his right to obtain a security certificate from a corporation in respect of the securities of the corporation held by him, but the corporation is not bound to issue more than one security certificate in respect of a security or securities held jointly by several persons, and delivery of a security certificate to one of several joint security holders is sufficient delivery to all.

Fee

- (2) A corporation may charge a fee of not more than \$3 for a security certificate issued in respect of a transfer. R.S.O. 1980, c. 54, s. 47, *amended*.

Signing of
share
certificates

55.—(1) A security certificate shall be signed manually by at least one director or officer of the corporation or by or on behalf of a registrar, transfer agent, branch transfer agent or issuing or other authenticating agent of the corporation, or by a trustee who certifies it in accordance with a trust indenture, and any additional signatures required on a security certificate may be printed or otherwise mechanically reproduced thereon.

Idem

- (2) If a security certificate contains a printed or mechanically reproduced signature of a person, the corporation may issue the security certificate notwithstanding that the person has ceased to be a director or an officer of the corporation, and the security certificate is as valid as if he were a director or an officer at the date of its issue.

Where manual
signature not
required

- (3) Notwithstanding subsection (1), a manual signature is not required on,

- (a) a promissory note that is not issued under a trust indenture;

- (b) a scrip certificate;
- (c) a security certificate representing a fractional share; or
- (d) a warrant. R.S.O. 1980, c. 54, s. 48, *amended*.

56.—(1) A corporation shall state upon the face of each share certificate issued by it, Contents of
share
certificate

- (a) the name of the corporation and the words “Incorporated under the law of the Province of Ontario” or words of like effect;
- (b) the name of the person to whom it was issued; and
- (c) the number and class of shares and the designation of any series that the certificate represents.

(2) Where a corporation is authorized to issue shares of more than one class or series, the corporation shall legibly state on each share certificate issued by it, Idem

- (a) the rights, privileges, restrictions and conditions attached to the shares of each class and series that exists when the share certificate is issued; or
- (b) that the class or series of shares that it represents has rights, privileges, restrictions or conditions attached thereto and that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of,
 - (i) the rights, privileges, restrictions and conditions attached to that share and to each class authorized to be issued and to each series in so far as the same have been fixed by the directors, and
 - (ii) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1980, c. 54, s. 49 (1, 2), *amended*.

(3) Where a share certificate issued by a corporation or by a body corporate before the body corporate was continued under section 179 is, or becomes, subject to, Where
restriction,
lien, etc.,
ineffective

- (a) a restriction on its transfer other than a restriction referred to in subsection (8);

- (b) a lien in favour of the corporation;
- (c) a unanimous shareholder agreement; or
- (d) an endorsement under subsection 184 (11),

the restriction, lien, agreement or endorsement is ineffective against a transferee of the share who has no actual knowledge of it, unless it or a reference to it is noted conspicuously on the share certificate.

Notice of
restriction

(4) If a body corporate continued under section 179 has outstanding a share certificate issued prior to the date of the certificate of continuance and if the words "private company" appear on the certificate, those words are deemed to be a notice of a restriction, lien, agreement or endorsement for the purpose of subsection (3).

Idem
R.S.O. 1970,
c. 89

(5) Where a corporation was incorporated as a private company under *The Corporations Act*, or any predecessor thereof, before the 1st day of January, 1971, the words "private company" appearing conspicuously on the face of a share certificate issued before the 1st day of January, 1971 shall be deemed to be notice of a restriction on the transfer of the share for the purpose of subsection (3). R.S.O. 1980, c. 54, s. 70, *amended*.

Par value
share
certificate

(6) A share certificate issued,

- (a) prior to the day this Act comes into force by a corporation; or
- (b) prior to the date of the certificate of continuance by a body corporate continued under section 179,

does not contravene this Act merely because the certificate refers to the share or shares represented thereby as having a nominal or par value.

Information to
be furnished
by corporation

(7) Where a share certificate issued by a corporation contains the statement mentioned in clause (2) (b), the corporation shall furnish to a shareholder on demand and without charge a full copy of the text of,

- (a) the rights, privileges, restrictions and conditions attached to that class authorized to be issued and to that series in so far as the same have been fixed by the directors; and
- (b) the authority of the directors to fix the rights, privileges, restrictions and conditions of subsequent series, if applicable. R.S.O. 1980, c. 54, s. 49 (5, 6), *amended*.

(8) Where the articles of a corporation restrict the issue, transfer or ownership of shares of any class or series for the purpose of assisting the corporation or any of its affiliates or associates to qualify under any prescribed Act of Canada or a province or ordinance of a territory to receive licences, permits, grants, payments or other benefits by reason of attaining or maintaining a specified level of Canadian ownership or control, the restriction or a reference to it shall be noted conspicuously on every share certificate of the corporation evidencing a share that is subject to the restriction where the certificate is issued after the day on which the share becomes subject to the restriction under this Act and any reference to the restriction shall include a statement that the corporation will furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

Notice of
restrictions

(9) Where a share certificate of a corporation contains a reference to a restriction under subsection (8), the corporation shall furnish to a shareholder, on demand and without charge, a full copy of the text of the restriction.

Furnishing
text of
restrictions

(10) The omission to note a restriction or a reference to it under subsection (8) shall not invalidate any share or share certificate and shall not render the restriction ineffective against an owner, holder or transferee of the share or share certificate. *New.*

Omission
to note
restrictions

57.—(1) A corporation may issue a certificate for a fractional share or may issue in place thereof scrip certificates in bearer form that entitle the holder to receive a certificate for a full share by exchanging scrip certificates aggregating a full share.

Certificate for
fractional
share or
scrip
certificates

(2) The directors may attach conditions to any scrip certificates issued by a corporation, including conditions that,

Scrip
certificates

- (a) the scrip certificates become void if not exchanged for a certificate representing a full share before a specified date; and
- (b) any shares for which such scrip certificates are exchangeable may, notwithstanding any pre-emptive right, be issued by the corporation to any person and the proceeds thereof distributed rateably to the holders of the scrip certificates.

(3) A holder of a fractional share issued by a corporation is not entitled to exercise voting rights or to receive a dividend in respect of the fractional share unless,

Rights of
holder of
fractional share

- (a) the fractional share results from a consolidation of shares; or
- (b) the articles of the corporation otherwise provide.

Rights of
holder of
scrip certificate

(4) A holder of a scrip certificate is not entitled to exercise voting rights or to receive a dividend in respect of the scrip certificate. R.S.O. 1980, c. 54, s. 50, *amended*.

Overissue

58.—(1) The provisions of this Act that validate a security or compel its issue or reissue do not apply to the extent that validation, issue or reissue would result in overissue, but,

- (a) if an identical security that does not constitute an overissue is reasonably available for purchase, the person entitled to issue or validation may compel the issuer to purchase and deliver such a security to him against surrender of the security, if any, that he holds; or
- (b) if a security is not so available for purchase, the person entitled to issue or validation may recover from the issuer the price he or the last purchaser for value paid for it with interest from the date of his demand. R.S.O. 1980, c. 54, s. 63 (2).

Validation of
overissue

(2) When an issuer subsequently amends its articles or a trust indenture to which it is a party to increase any maximum number of securities to a number equal to or in excess of the maximum number of securities previously authorized plus the amount of the securities overissued, the securities so overissued, and any act taken by any person in reliance upon the validity of such overissued securities, are valid from the date of their issue.

Non-application
of ss. 30, 31,
32, 35

(3) A purchase or payment by an issuer under subsection (1) is not a purchase or payment to which section 30, 31, 32 or 35 applies. *New*.

Evidence

59. In an action on a security,

- (a) unless specifically denied in the pleadings, each signature on the security or in a necessary endorsement is admitted;
- (b) a signature on the security is presumed to be genuine and authorized but, if the effectiveness of the signature is put in issue, the burden of establishing that it is genuine and authorized is on the party claiming under the signature;
- (c) if a signature is admitted or established, production of the instrument entitles a holder to recover on it unless the defendant establishes a defence or a defect going to the validity of the security; and
- (d) if the defendant establishes that a defence or defect exists, the plaintiff has the burden of establishing that

the defence or defect is ineffective against him or some person under whom he claims. R.S.O. 1980, c. 54, s. 64, *amended*.

60.—(1) The validity of a security and the rights and duties with respect to the registration of a transfer of a security of an issuer that is a corporation or a body corporate incorporated under the laws of Ontario are governed by this Act and the laws of Ontario. Selection of laws

(2) The validity of a security and the rights and duties with respect to the registration of a transfer of a security of an issuer that is a body corporate other than a corporation or a body corporate incorporated under the laws of Ontario are governed by the law, including the conflict of law rules, of the jurisdiction in which the body corporate was incorporated. R.S.O. 1980, c. 54, s. 65, *amended*. Idem

61.—(1) Unless otherwise agreed and subject to any applicable law, regulation or stock exchange rule, a person required to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or endorsed to him or in blank. Form of transfer

(2) Where the buyer fails to pay the price as it comes due under a contract of sale, the seller may recover the price, Default in payment

(a) of any security accepted by the buyer; and

(b) of any security not accepted by the buyer if its resale would be unduly burdensome or there is no readily available market,

but resort to the remedy herein provided for shall not be construed so as to affect or limit any rights or remedies under applicable law. R.S.O. 1980, c. 54, s. 66, *amended*.

62.—(1) The obligations and defences of an issuer apply to a guarantor of a security to the extent of his guarantee whether or not his obligation is noted on the security. Position of issuer re guarantor

(2) The person on whose behalf a register of transfers is maintained is an issuer for the purposes of the registration of a transfer under sections 86 to 89. *New*. Issuer

63.—(1) Even against a purchaser for value and without notice of a defect going to the validity of a security, the terms of a security include those stated on the security and those incorporated therein by reference to another instrument, statute, rule, regulation or order to the extent that the terms so referred to do not conflict with the stated terms, but such a reference is not of itself notice to a purchaser for value of a defect going to the validity of Notice of terms of security

the security, notwithstanding that the security expressly states that a person accepting it admits such notice.

Validity of
security

(2) A security is valid in the hands of a purchaser for value without notice of any defect going to its validity.

Defence of
issuer

(3) Except as provided in section 65, the fact that a security is not genuine is a complete defence even against a *bona fide* purchaser.

Idem

(4) All other defences of the issuer including non-delivery and conditional delivery of the security are ineffective against a *bona fide* purchaser. R.S.O. 1980, c. 54, s. 68 (1-3), *amended*.

Idem

(5) Nothing in this section shall be construed to affect the right of a party to a “when, as and if issued” or a “when distributed” contract to cancel the contract in the event of a material change in the character of the security that is the subject of the contract or in the plan or arrangement under which such security is to be issued or distributed. R.S.O. 1980, c. 54, s. 68 (4).

Notice of
defect

64.—(1) After an act or event that creates a right to immediate performance of the principal obligation evidenced by the security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange, a purchaser is deemed to have notice of any defect in its issue or any defence of the issuer,

- (a) if the act or event requires the payment of money or the delivery of securities or both on presentation or surrender of the security and such funds or securities are available on the date set for payment or exchange and he takes the security more than one year after that date; and
- (b) if the act or event is not one to which clause (a) applies and he takes the security more than two years after the date set for surrender or presentation or the date on which such performance became due.

Revoked call
for redemption
excepted

(2) Subsection (1) does not apply to a call for redemption that has been revoked. R.S.O. 1980, c. 54, s. 69, *amended*.

Unauthorized
signatures on
issue

65. An unauthorized signature placed on a security before or in the course of issue is ineffective, except that the signature is effective in favour of a *bona fide* purchaser if the signing has been done by,

- (a) an authenticating trustee, registrar, transfer agent or other person entrusted by the issuer with the signing of the security or of similar securities, or their immediate preparation for signing; or

- (b) an employee of the issuer or of a person referred to in clause (a) who in the ordinary course of his duties handles the security. R.S.O. 1980, c. 54, s. 71.

66.—(1) Where a security contains the signatures necessary to its issue or transfer but is incomplete in any other respect, Completion of blanks

- (a) any person may complete it by filling in the blanks in accordance with his authority; and
- (b) notwithstanding that the blanks are incorrectly filled in, the security as completed is enforceable by a purchaser who took it for value and without notice of such incorrectness. R.S.O. 1980, c. 54, s. 72 (1), *amended*.

(2) A completed security that has been improperly altered, even if fraudulently altered, remains enforceable but only according to its original terms. R.S.O. 1980, c. 54, s. 72 (2). Improper alteration

67.—(1) An issuer or a trustee defined in subsection 46 (1) may, subject to sections 95, 96 and 100, treat the registered holder of a security as the person exclusively entitled to vote, to receive notices, to receive any interest, dividend or other payments in respect of the security, and otherwise to exercise all the rights and powers of a holder of the security. R.S.O. 1980, c. 54, s. 73 (1), *amended*. Effect of registration

(2) Notwithstanding subsection (1), an issuer whose articles restrict the right to transfer its securities shall, and any other issuer may, treat a person referred to in clause (a), (b) or (c) as a registered security holder entitled to exercise all the rights of the security holder he represents, if that person furnishes evidence as described in subsection 87 (3) to the issuer that he is, Representatives, etc., may exercise rights of security holder

- (a) the executor, administrator, heir or legal representative of the heirs, of the estate of a deceased security holder;
- (b) a guardian, committee, trustee, curator or tutor representing a registered security holder who is an infant, an incompetent person or a missing person; or
- (c) a liquidator of, or a trustee in bankruptcy for, a registered security holder.

(3) If a person upon whom the ownership of a security devolves by operation of law, other than a person referred to in subsection (2), furnishes proof of his authority to exercise rights or privileges in respect of a security of the issuer that is not registered in his name, the issuer shall treat the person as entitled to exercise those rights or privileges. Rights where ownership devolves by operation of law

Corporation
has no duty to
enforce
performance

(4) An issuer is not required to inquire into the existence of, or see to the performance or observance of, any duty owed to a third person by a registered holder of any of its securities or by anyone whom it treats, as permitted or required by this section, as the owner or registered holder thereof.

Repudiation by
infant

(5) If an infant exercises any rights of ownership in the securities of an issuer, no subsequent repudiation or avoidance is effective against the issuer.

Joint
holders

(6) Where a security is issued to several persons as joint holders, upon satisfactory proof of the death of one joint holder, the issuer may treat the surviving joint holders as owner of the security.

Registration of
executor, etc.

(7) Subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, a person referred to in clause (2) (a) is entitled to become a registered holder or to designate a registered holder, if he deposits with the issuer or its transfer agent,

(a) the original grant of probate or of letters of administration, or a copy thereof certified to be a true copy by,

(i) the court that granted the probate or letters of administration,

(ii) a trust company incorporated under the laws of Canada or a province, or

(iii) a lawyer or notary acting on behalf of the person;
or

(b) in the case of transmission by notarial will in the Province of Quebec, a copy thereof authenticated under the laws of that Province,

together with,

(c) an affidavit or declaration of transmission made by the person stating the particulars of the transmission;

(d) the security certificate that was owned by the deceased holder,

(i) in case of a transfer to the person, with or without the endorsement of that person, and

(ii) in case of a transfer to any other person, endorsed in accordance with section 73; and

(e) any assurance the issuer may require under section 87.

(8) Notwithstanding subsection (7), if the laws of the jurisdiction ^{Idem} governing the transmission of a security of a deceased holder do not require a grant of probate or of letters of administration in respect of the transmission, a legal representative of the deceased holder is entitled, subject to any applicable law of Canada or a province of Canada relating to the collection of taxes, to become a registered holder or to designate a registered holder, if he deposits with the issuer or its transfer agent,

- (a) the security certificate that was owned by the deceased holder; and
- (b) reasonable proof of the governing laws, the deceased holder's interest in the security and the right of the legal representative or the person he designates to become the registered holder.

(9) Deposit of the documents required by subsection (7) or (8) ^{Recording in security register} empowers an issuer or its transfer agent to record in a securities register the transmission of a security from the deceased holder to a person referred to in clause (2) (a) or to such person as that person may designate and, thereafter, to treat the person who thus becomes a registered holder as the owner of those securities. *New.*

68.—(1) A person placing his signature upon a security as authenticating trustee, registrar or transfer agent warrants to a purchaser for value without notice of the particular defect that, ^{Warranties in issue}

- (a) the security is genuine and in proper form;
- (b) his own participation in the issue of the security is within his capacity and within the scope of the authorization received by him from the issuer; and
- (c) he has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

(2) Unless otherwise agreed, a person referred to in subsection ^{Idem} (1) does not assume any further liability for the validity of a security. R.S.O. 1980, c. 54, s. 74.

69.—(1) Upon delivery of a security, the purchaser acquires ^{Rights acquired by purchasers} the rights in the security that his transferor had or had actual authority to convey except that a purchaser who has himself been

a party to any fraud or illegality affecting the security or who as a prior holder had notice of an adverse claim cannot improve his position by taking from a later *bona fide* purchaser.

Bona fide
purchaser

(2) A *bona fide* purchaser in addition to acquiring the rights of a purchaser also acquires the security free of any adverse claim.

Limited
interest

(3) A purchaser of a limited interest acquires rights only to the extent of the interest purchased. R.S.O. 1980, c. 54, s. 75.

Notice of
adverse claim

70.—(1) A purchaser, including a broker for a seller or purchaser, of a security is deemed to have notice of an adverse claim if,

- (a) the security has been endorsed “for collection” or “for surrender” or for some other purpose not involving transfer; or
- (b) the security has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on a security is not such a statement. R.S.O. 1980, c. 54, s. 76 (1), *amended*.

Idem

(2) Notwithstanding that a purchaser, including a broker for a seller or purchaser, has notice that a security is held for a third person or is registered in the name of or endorsed by a fiduciary, he has no duty to inquire into the rightfulness of the transfer and has no notice of an adverse claim, except that where a purchaser knows that the consideration is to be used for, or that the transaction is for, the personal benefit of the fiduciary or is otherwise in breach of the fiduciary's duty, the purchaser is deemed to have notice of an adverse claim. R.S.O. 1980, c. 54, s. 76 (2), *amended*.

Idem

(3) An event that creates a right to immediate performance of the principal obligation evidenced by a security or that sets a date on or after which the security is to be presented or surrendered for redemption or exchange is not of itself notice of an adverse claim, except in the case of a purchase,

- (a) after one year from any date set for such presentation or surrender for redemption or exchange; or
- (b) after six months from any date for payment of money against presentation or surrender of the security if funds are available for payment on that date. R.S.O. 1980, c. 54, s. 76 (3).

Warranties on
presentment

71.—(1) A person who presents a security for registration of transfer or for payment or exchange warrants to the issuer that he

is entitled to the registration, payment or exchange, except that a *bona fide* purchaser who receives a new, reissued or reregistered security on registration of transfer warrants only that he has no knowledge of any unauthorized signature in a necessary endorsement.

(2) A person by transferring a security to a purchaser for value warrants only that, Warranties on transfer

- (a) the transfer is effective and rightful;
- (b) the security is genuine and has not been materially altered; and
- (c) he knows of nothing that might impair the validity of the security.

(3) Where a security is delivered by an intermediary known by the purchaser to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim to be collected against such delivery, the intermediary by such delivery warrants only his own good faith and authority even if he has purchased or made advances against the draft or other claim to be collected against the delivery. Warranties by intermediary

(4) A pledgee or other holder for purposes of security who redelivers a security received, or after payment and on order of the debtor delivers that security to a third person, gives only the warranties of an intermediary under subsection (3). Warranties of pledgee

(5) A broker gives to his customer, to the issuer or to a purchaser, as the case may be, the warranties provided in this section and has the rights and privileges of a purchaser under this section, and those warranties of and in favour of the broker acting as an agent are in addition to warranties given by his customer and warranties given in favour of his customer. R.S.O. 1980, c. 54, s. 77, *amended*. Warranties of broker

72. Where a security in registered form has been delivered to a purchaser without a necessary endorsement, he may become a *bona fide* purchaser only as of the time the endorsement is supplied, but against the transferor the transfer is complete upon delivery and the purchaser has a specifically enforceable right to have any necessary endorsement supplied. R.S.O. 1980, c. 54, s. 78. Absence of endorsement

73.—(1) An endorsement of a security in registered form is made when an appropriate person signs on the security or on a separate document an assignment or transfer of the security or a power to assign or transfer it or when the signature of the person is written without more upon the back of the security. Endorsement

Idem

(2) An endorsement of a security may be,

(a) in blank, including to bearer; or

(b) a special endorsement, specifying the person to whom the security is to be transferred or who has the power to transfer it,

and a holder may convert an endorsement in blank into a special endorsement.

Obligation of endorser

(3) Unless otherwise agreed, the endorser by his endorsement assumes no obligation that the security will be honoured by the issuer.

Partial endorsement

(4) An endorsement purporting to be only of part of a security representing units intended by the issuer to be separately transferable is effective to the extent of the endorsement.

Appropriate person

(5) Whether the person who has made an endorsement is appropriate shall be determined as of the date the endorsement was made and an endorsement by such person does not become unauthorized for the purposes of this Act by virtue of any subsequent change of circumstances.

Improper endorsement by fiduciary

(6) Failure of a fiduciary to comply with a controlling instrument or with the law applicable to the fiduciary relationship, including any law requiring the fiduciary to obtain court approval of the transfer, does not render his endorsement unauthorized for the purposes of this Act. R.S.O. 1980, c. 54, s. 79.

Delivery necessary

74. An endorsement of a security whether special or in blank does not constitute a transfer until delivery of the security on which it appears, or if the endorsement is on a separate document until the delivery of both the document and the security. R.S.O. 1980, c. 54, s. 80.

Endorsement of security in bearer form

75. An endorsement of a security in bearer form may give notice of an adverse claim under section 70 but does not otherwise affect any right to registration that the holder has. *New.*

Effect of unauthorized endorsement

76.—(1) The owner of a security may assert the ineffectiveness of an endorsement against the issuer or any purchaser, other than a *bona fide* purchaser who received a new, reissued or reregistered security on registration of transfer, unless the owner,

(a) has ratified an unauthorized endorsement of the security; or

(b) is otherwise precluded from impugning the effectiveness of an unauthorized endorsement.

(2) An issuer who registers the transfer of a security upon an unauthorized endorsement is liable for improper registration. R.S.O. 1980, c. 54, s. 81, *amended*. Idem

77.—(1) Every person who guarantees a signature of an endorser of a security warrants that at the time of signing, Guarantee of signature

- (a) the signature was genuine;
- (b) the signer was an appropriate person to endorse; and
- (c) the signer had legal capacity to sign,

but the guarantor does not otherwise warrant the rightfulness of the particular transfer.

(2) Any person may guarantee an endorsement of a security and by so doing warrants not only the signature but also the rightfulness of the particular transfer in all respects. Guarantee of endorsement

(3) No issuer may require a guarantee of endorsement as a condition to registration of transfer. Idem

(4) The warranties referred to in this section are made to any person taking or dealing with the security in reliance on the guarantee and the guarantor is liable to such person for any loss resulting from breach of warranty. R.S.O. 1980, c. 54, s. 82, *amended*. Liability of guarantor

78.—(1) Delivery to a purchaser occurs when, What constitutes delivery

- (a) he or a person designated by him acquires possession of a security;
- (b) his broker acquires possession of a security specially endorsed or issued in the name of the purchaser;
- (c) his broker sends him confirmation of the purchase and the broker in his records identifies a specific security in the broker's possession as belonging to the purchaser;
- (d) with respect to an identified security to be delivered while still in the possession of a third person, that person acknowledges that he holds it for the purchaser; or
- (e) appropriate entries in the records of a clearing corporation are made under section 85.

(2) A purchaser is the owner of a security held for him by his broker, but is not the holder except as specified in clauses (1) (b), (c) and (e). What constitutes ownership

Idem

(3) If a security is part of a fungible bulk, the purchaser is the owner of a proportionate property interest in the fungible bulk.

Notice of
adverse claim
after delivery

(4) Notice of an adverse claim received by a broker or by a purchaser after the broker takes delivery as a holder for value is not effective against the broker or the purchaser except that as between the broker and the purchaser, the purchaser may demand delivery of an equivalent security as to which no notice of an adverse claim has been received. R.S.O. 1980, c. 54, s. 83, *amended*.

Duty of seller
to deliver

79.—(1) Unless otherwise agreed where a sale of a security is made on a stock exchange recognized for the purposes of this Part by the Commission or otherwise through brokers,

- (a) the selling customer fulfils his duty to deliver when he places such a security in the possession of the selling broker or of a person designated by the broker or, if requested, causes an acknowledgement to be made to the selling broker that it is held for him; and
- (b) the selling broker including a correspondent broker acting for a selling customer fulfils his duty to deliver by placing the security or a like security in the possession of the buying broker or a person designated by him or by effecting clearance of the sale in accordance with the rules of the recognized stock exchange on which the transaction took place.

Idem

(2) Except as otherwise provided in this section and unless otherwise agreed, a transferor's duty to deliver a security under a contract of purchase is not fulfilled until he places the security in form to be negotiated by the purchaser in the possession of the purchaser or of a person designated by him or at the purchaser's request causes an acknowledgement to be made to the purchaser that it is held for him.

Idem

(3) A sale to a broker purchasing for his own account is subject to subsection (2) and not subsection (1), unless the sale is made on a recognized stock exchange. R.S.O. 1980, c. 54, s. 84, *amended*.

Action for
wrongful
transfer

80.—(1) A person against whom the transfer of a security is wrongful for any reason, including his incapacity, may against anyone except a *bona fide* purchaser reclaim possession of the security or obtain possession of any new security evidencing all or part of the same rights or claim damages.

Idem

(2) If the transfer of a security is wrongful by reason of an unauthorized endorsement, the owner may reclaim possession of the security or a replacing security even from a *bona fide*

purchaser if the ineffectiveness of the purported endorsement may be asserted against such purchaser under section 76.

(3) The right to reclaim possession of a security may be specifically enforced, its transfer may be restrained and the security may be impounded pending litigation. R.S.O. 1980, c. 54, s. 85, *amended*. Specific performance and injunction

81.—(1) Unless otherwise agreed, a transferor shall on demand supply his purchaser with proof of his authority to transfer or with any other requisite that is necessary to obtain registration of the transfer of a security, but if the transfer is not for value a transferor need not do so unless the purchaser pays the reasonable and necessary costs of the proof and transfer. Transferor's duty to provide requisites for registration of transfer

(2) If the transferor fails to comply with a demand under subsection (1) within a reasonable time, the purchaser may reject or rescind the transfer. R.S.O. 1980, c. 54, s. 86, *amended*. Effect of failure

82. No seizure of a security or other interest evidenced thereby is effective until the person making the seizure obtains possession of the security. *New*. When seizure effective

83. An agent or bailee who in good faith, including observance of reasonable commercial standards if he is in the business of buying, selling or otherwise dealing with securities, has received securities and sold, pledged or delivered them according to the instructions of his principal is not liable for conversion or for participation in breach of fiduciary duty although the principal has no right to dispose of them. R.S.O. 1980, c. 54, s. 87. Transfer by agent in good faith not conversion

84. A contract for the sale of securities is not enforceable by way of action or defence unless, Contract for sale

- (a) there is some writing signed by the party against whom enforcement is sought or by his authorized agent or broker sufficient to indicate that a contract has been made for sale of a stated quantity of described securities at a defined or stated price;
- (b) delivery of the security has been accepted or payment has been made, but the contract is enforceable under this provision only to the extent of such delivery or payment;
- (c) within a reasonable time a writing in confirmation of the sale or purchase and sufficient against the sender under clause (a) has been received by the party against whom enforcement is sought and he has failed to send written objection to its contents within a reasonable time after its receipt; or

- (d) the party against whom enforcement is sought admits in his pleading, testimony or otherwise in court that a contract was made for sale of a stated quantity of described securities at a defined or stated price. R.S.O. 1980, c. 54, s. 88.

Transfer
through
clearing house

85.—(1) If a security,

- (a) is in the custody of a clearing corporation or of a custodian or nominee of either, subject to the instructions of the clearing corporation;
- (b) is in bearer form or endorsed in blank by an appropriate person or registered in the name of the clearing corporation or custodian or a nominee of either; and
- (c) is shown on the account of a transferor or pledgor in the records of the clearing corporation,

then, in addition to other methods, a transfer or pledge of the security or any interest therein may be effected by the making of appropriate entries in the records of the clearing corporation, reducing the account of the transferor or pledgor and increasing the account of the transferee or pledgee by the amount of the obligation or the number of shares or rights transferred or pledged.

Interest in
fungible bulk

(2) Under this section, entries may be in respect of like securities or interests therein as part of a fungible bulk and may refer merely to a quantity of a particular security without reference to the name of the registered owner, certificate or bond number or the like and, in appropriate cases, may be on a net basis taking into account other transfers or pledges of the same security.

Constructive
endorsement
and delivery

(3) A transfer or pledge under this section has the effect of a delivery of a security in bearer form or duly endorsed in blank representing the amount of the obligation or the number of shares or rights transferred or pledged.

Idem

(4) If a pledge or the creation of a security interest is intended, the making of entries has the effect of a taking of delivery by the pledgee or a secured party and the pledgee or secured party shall be deemed to have taken possession for all purposes including the purposes of the *Personal Property Security Act*.

R.S.O. 1980,
c. 375

Holder

(5) A transferee or pledgee under this section is a holder.

Not
registration

(6) A transfer or pledge under this section does not constitute a registration of transfer under sections 86 to 90.

Error in
records

(7) That entries made in the records of the clearing corporation as provided in subsection (1) are not appropriate does not affect the validity or effect of the entries nor the liabilities or obligations

of the clearing corporation to any person adversely affected thereby.

(8) For the purposes of this section, if a clearing corporation or its nominee is registered in the securities register of a body corporate as the owner of a share, participation or other interest in or obligation of the body corporate, but such body corporate has not issued a security certificate in respect thereof, Where security certificate not issued

- (a) the clearing corporation or its nominee shall be deemed to have custody of a security certificate in respect of such share, participation or other interest in or obligation of the body corporate; and
- (b) such security certificate shall be deemed to be registered in the name of the clearing corporation or its nominee, as the case may be. R.S.O. 1980, c. 54, s. 89, *amended*.

86.—(1) Where a security in registered form is presented for transfer, the issuer shall register the transfer if, Duty of issuer to register transfer

- (a) the security is endorsed by the appropriate person;
- (b) reasonable assurance is given that that endorsement is genuine and effective;
- (c) the issuer has no duty to inquire into adverse claims or has discharged any such duty;
- (d) any applicable law of Canada or a province of Canada relating to the collection of taxes has been complied with;
- (e) the transfer is rightful or is to a *bona fide* purchaser; and
- (f) any fee referred to in subsection 54 (2) has been paid.

(2) Where an issuer has a duty to register a transfer of a security, the issuer is liable to the person presenting it for registration or his principal for loss resulting from any unreasonable delay in registration or from failure or refusal to register the transfer. R.S.O. 1980, c. 54, s. 90, *amended*. Liability for undue delay

87.—(1) For the purpose of obtaining reasonable assurance that each necessary endorsement required by section 73 is genuine and effective, the issuer may require a guarantee of the signature of the person endorsing or, where such guarantee is lacking, Assurances required by issuer

- (a) if the endorsement is by an agent, reasonable assurance of authority to sign;
- (b) if the endorsement is by a fiduciary or a successor on whom title or control vests on the death of the holder, appropriate evidence of appointment or incumbency;

- (c) if there is more than one fiduciary or successor, reasonable assurance that all who are required to sign have done so; and
- (d) if the endorsement is by a person other than by a person mentioned in this section, assurance appropriate to the case equivalent as nearly as may be to those required by this section.

Sufficiency of
guarantee

(2) A “guarantee of the signature” in subsection (1) means a guarantee signed by or on behalf of a person reasonably believed by the issuer to be responsible, and the issuer may adopt reasonable standards with respect to responsibility.

Appropriate
evidence of
appointment or
incumbency

(3) For the purposes of subsection (1), “appropriate evidence of appointment or incumbency” means,

- (a) in the case of a fiduciary appointed by a court, a copy, certified in accordance with subsection 67 (7) not more than sixty days before the date the security is presented for transfer, of the order of the court;
- (b) in the case of an estate of the deceased holder of net value less than \$3,000 or if the market value of the securities is less than \$600, proof thereof to the reasonable satisfaction of the issuer; or
- (c) in any other case, a copy of a document showing the appointment or other evidence believed by the issuer to be appropriate.

Where contents
not notice

(4) An issuer is not deemed to have notice of the contents of any document obtained under subsection (3) except to the extent that the contents relate directly to appointment or incumbency.

Notice of
additional
assurances

(5) If an issuer demands assurance additional to that specified in this section for a purpose other than that specified in subsection (3) and obtains a copy of a will, trust or partnership agreement, by-law or similar document, the issuer shall be deemed to have notice of all matters contained therein affecting the transfer. R.S.O. 1980, c. 54, s. 91, *amended*.

Notice to issuer
of adverse
claim

88.—(1) An issuer to whom a security is presented for registration has a duty to inquire into adverse claims if,

- (a) written notice of an adverse claim is received at a time and in a manner that affords the issuer a reasonable opportunity to act on it before the issue of a new, re-issued or reregistered security and the notice discloses the name and address of the claimant, the registered owner and the issue of which the security is a part;
- (b) the issuer is deemed to have notice of an adverse claim from a document that is obtained under subsection 87 (5); or

- (c) the issuer is given written notice by the registered owner that the security is lost, apparently destroyed or wrongfully taken.

(2) An issuer may discharge a duty of inquiry by any reasonable means, including notifying an adverse claimant by registered mail sent to the address furnished by him or, if no such address has been furnished, to his residence or regular place of business, that a security has been presented for registration of transfer by a named person, and that the transfer will be registered unless within thirty days from the date of mailing the notice either,

Discharge of
duty of inquiry

- (a) the issuer is served with a restraining order or other order of a court; or
- (b) the issuer is provided with an indemnity bond sufficient in the issuer's judgment to protect the issuer and any registrar, transfer agent or other agent of the issuer from any loss that may be incurred by any of them as a result of complying with the adverse claim.

(3) Unless an issuer is deemed to have notice of an adverse claim from a document that is obtained under subsection 87 (5) or has received notice of an adverse claim under subsection (1), if a security presented for registration is endorsed by the appropriate person, the issuer has no duty to inquire into adverse claims and in particular,

Where no duty
to inquire

- (a) an issuer registering a security in the name of a person who is a fiduciary or who is described as a fiduciary is not bound to inquire into the existence, extent or correct description of the fiduciary relationship and thereafter the issuer may assume without inquiry that the newly registered owner continues to be the fiduciary until the issuer receives written notice that the fiduciary is no longer acting as such with respect to the particular security;
- (b) an issuer registering transfer on an endorsement by a fiduciary has no duty to inquire whether the transfer is made in compliance with the document or with the law of the jurisdiction governing the fiduciary relationship; and
- (c) an issuer is deemed not to have notice of the contents of any court record or any registered document even if the record or document is in the issuer's possession and even if the transfer is made on the endorsement of a fiduciary to the fiduciary himself or to his nominee.

(4) A written notice of adverse claim received by an issuer is effective for twelve months from the date when it was received unless the notice is renewed in writing. R.S.O. 1980, c. 54, s. 92, *amended*.

Limitation for
notice

Liability of
issuer

89.—(1) Except as otherwise provided in any applicable law of Canada or any province of Canada relating to the collection of taxes, the issuer is not liable to the owner or any other person who incurs a loss as a result of the registration of a transfer of a security if,

- (a) the necessary endorsements were on or with the security; and
- (b) the issuer had no duty to inquire into adverse claims or had discharged any such duty.

Idem

(2) If an issuer has registered a transfer of a security to a person not entitled to it, the issuer shall deliver on demand a like security to the owner unless,

- (a) subsection (1) applies;
- (b) the owner is precluded by subsection 90 (1) from asserting any claim; or
- (c) the delivery would result in overissue, in which case the issuer's liability is governed by section 58. R.S.O. 1980, c. 54, s. 93, *amended*.

Loss, etc.,
of securities

90.—(1) Where a security has been lost, apparently destroyed or wrongfully taken, and the owner fails to notify the issuer of that fact by giving the issuer written notice of his adverse claim within a reasonable time after he knows of the loss, destruction or taking and if the issuer has registered a transfer of the security before receiving such notice, the owner is precluded from asserting against the issuer any claim to a new security.

Replacing
loss, etc., of
securities

(2) Where the owner of a security claims that the security has been lost, apparently destroyed or wrongfully taken, the issuer shall issue a new security in place of the original security if the owner,

- (a) so requests before the issuer has notice that the security has been acquired by a *bona fide* purchaser;
- (b) files with the issuer an indemnity bond sufficient in the issuer's opinion to protect the issuer and any transfer agent, registrar or other agent of the issuer from any loss that it or any of them may suffer by complying with the request to issue a new security; and
- (c) satisfies any other reasonable requirements imposed by the issuer.

(3) If, after the issue of a new security under subsection (2), a *bona fide* purchaser of the original security presents the original security for registration of transfer, the issuer shall register the transfer unless registration would result in overissue, in which case the issuer's liability is governed by section 58. Rights of *bona fide* purchaser

(4) In addition to any rights on an indemnity bond, the issuer may recover a new security issued under subsection (2) from the person to whom it was issued or any person taking under him other than a *bona fide* purchaser. R.S.O. 1980, c. 54, s. 94, *amended*. Rights of issuer

91.—(1) An authenticating trustee, transfer agent, registrar or other agent for an issuer has in respect of the issue, registration of transfer, and cancellation of a security of the issuer, Duty of agents for issuer

- (a) a duty to the issuer and to the holder or owner to exercise good faith and due diligence; and
- (b) the same obligations to the holder or owner of a security and the same rights, privileges and immunities as the issuer.

(2) Notice to an authenticating trustee, transfer agent, registrar or other such agent is notice to the issuer with respect to the functions performed by the agent. R.S.O. 1980, c. 54, s. 95. Notice to agents for issuer

PART VII

SHAREHOLDERS

92.—(1) The shareholders of a corporation are not, as shareholders, liable for any act, default, obligation or liability of the corporation except under subsection 34 (5), subsection 108 (5) and section 242. R.S.O. 1980, c. 54, s. 102, *amended*. Shareholders' liability limited

(2) The provisions of the *Corporations Act* relating to the liability of a holder of shares that are not fully paid and to the enforcement of such liability apply in respect of shares that were not fully paid, Application of R.S.O. 1980, c. 95

- (a) on the 1st day of January, 1971, in the case of shares of a corporation that then became subject to *The Business Corporations Act*; or R.S.O. 1970, c. 53
- (b) on the day upon which any other body corporate was continued under *The Business Corporations Act* or under this Act, in the case of shares of such other body corporate. *New.*

Place of
meetings

93. Subject to the articles and any unanimous shareholder agreement, a meeting of shareholders of a corporation shall be held at such place in or outside Ontario as the directors determine or, in the absence of such a determination, at the place where the registered office of the corporation is located. R.S.O. 1980, c. 54, s. 103, *amended*.

Shareholders'
meetings

94. Subject to subsection 104 (1), the directors of a corporation,

- (a) shall call an annual meeting of shareholders not later than eighteen months after the corporation comes into existence and subsequently not later than fifteen months after holding the last preceding annual meeting; and
- (b) may at any time call a special meeting of shareholders. R.S.O. 1980, c. 54, s. 105 (2), *amended*.

Date for
determining
shareholders

95.—(1) For the purpose of determining shareholders,

- (a) entitled to receive payment of a dividend;
- (b) entitled to participate in a liquidation or distribution; or
- (c) for any other purpose except the right to receive notice of or to vote at a meeting,

the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days the particular action to be taken.

Idem

(2) For the purpose of determining shareholders entitled to receive notice of a meeting of shareholders, the directors may fix in advance a date as the record date for such determination of shareholders, but the record date shall not precede by more than fifty days or by less than twenty-one days the date on which the meeting is to be held.

Idem

(3) Where no record date is fixed,

- (a) the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders shall be,
 - (i) at the close of business on the day immediately preceding the day on which the notice is given, or
 - (ii) if no notice is given, the day on which the meeting is held; and

- (b) the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution relating thereto.

(4) If a record date is fixed, unless notice of the record date is ^{Notice of date} waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed,

- (a) by advertisement in a newspaper published or distributed in the place where the corporation has its registered office and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and
- (b) by written notice to each stock exchange in Canada on which the shares of the corporation are listed for trading. R.S.O. 1980, c. 54, s. 110, *amended*.

96.—(1) Notice of the time and place of a meeting of share- ^{Notice of}holders shall be sent, in the case of an offering corporation, not less ^{shareholders'} than twenty-one days and, in the case of any other corporation, ^{meetings} not less than ten days, but, in either case, not more than fifty days, before the meeting,

- (a) to each shareholder entitled to vote at the meeting;
- (b) to each director; and
- (c) to the auditor of the corporation.

(2) A notice of a meeting is not required to be sent to share- ^{Idem}holders who were not registered on the records of the corporation or its transfer agent on the record date determined under subsection 95 (2) or (3), but failure to receive a notice does not deprive a shareholder of the right to vote at the meeting.

(3) If a meeting of shareholders is adjourned for less than thirty ^{Idem} days, it is not necessary, unless the by-laws otherwise provide, to give notice of the adjourned meeting other than by announcement at the earliest meeting that is adjourned.

(4) If a meeting of shareholders is adjourned by one or more ^{Idem} adjournments for an aggregate of thirty days or more, notice of the adjourned meeting shall be given as for an original meeting but,

unless the meeting is adjourned by one or more adjournments for an aggregate of more than ninety days, subsection 111 (1) does not apply.

Special
business

(5) All business transacted at a special meeting of shareholders and all business transacted at an annual meeting of shareholders, except consideration of the minutes of an earlier meeting, the financial statements and auditor's report, election of directors and reappointment of the incumbent auditor, shall be deemed to be special business.

Idem

(6) Notice of a meeting of shareholders at which special business is to be transacted shall state or be accompanied by a statement of,

- (a) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon; and
- (b) the text of any special resolution or by-law to be submitted to the meeting. R.S.O. 1980, c. 54, s. 104, *part, amended*.

Shareholders'
meeting

97. Subject to this Act or the articles or by-laws of a corporation or a unanimous shareholder agreement,

- (a) all questions proposed for the consideration of the shareholders shall be determined by the majority of the votes cast and the chairman presiding at the meeting shall not have a second or casting vote in case of an equality of votes;
- (b) the chairman presiding at a meeting of shareholders may, with the consent of the meeting and subject to such conditions as the meeting decides, adjourn the meeting from time to time and from place to place subject to subsections 96 (3) and (4); and
- (c) the president or, in his absence, a vice-president who is a director shall preside as chairman at a meeting of shareholders, but, if there is no president or such a vice-president or if at a meeting none of them is present within fifteen minutes after the time appointed for the holding of the meeting, the shareholders present shall choose a person from their number to be the chairman. R.S.O. 1980, c. 54, s. 104 (1), *part, amended*.

Waiving
notice

98. A shareholder and any other person entitled to attend a meeting of shareholders may in any manner and at any time waive notice of a meeting of shareholders, and attendance of any such person at a meeting of shareholders is a waiver of notice of the meeting, except where he attends a meeting for the express pur-

pose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. R.S.O. 1980, c. 54, s. 246 (4), *amended*.

99.—(1) A shareholder entitled to vote at a meeting of shareholders may, Proposal

(a) submit to the corporation notice of a proposal; and

(b) discuss at the meeting any matter in respect of which he would have been entitled to submit a proposal.

(2) Where a corporation receives notice of a proposal and the corporation solicits proxies, it shall set out the proposal in the management information circular required by section 112 or attach the proposal thereto. Circulating proposal

(3) If so requested by a shareholder giving notice of a proposal, the corporation shall include in the management information circular or attach thereto a statement by the shareholder of not more than two hundred words in support of the proposal along with the name and address of the shareholder. Statement in support of proposal

(4) A proposal may include nominations for the election of directors if the proposal is signed by one or more holders of shares representing in the aggregate not less than 5 per cent of the shares or 5 per cent of the shares of a class or series of shares of the corporation entitled to vote at the meeting to which the proposal is to be presented, but this subsection does not preclude nominations being made at a meeting of shareholders. Proposal may include nominations

(5) A corporation is not required to comply with subsections (2) and (3) where, Where subss. (2), (3) do not apply

(a) the proposal is not submitted to the corporation at least sixty days before the anniversary date of the last annual meeting, if the matter is proposed to be raised at an annual meeting, or at least sixty days before a meeting other than the annual meeting, if the matter is proposed to be raised at a meeting other than the annual meeting;

(b) it clearly appears that the proposal is submitted by the shareholder primarily for the purpose of enforcing a personal claim or redressing a personal grievance against the corporation or any of its directors, officers or security holders, or for a purpose that is not related in any significant way to the business or affairs of the corporation;

(c) the corporation, at the shareholder's request, included a proposal in a management information circular relating

to a meeting of shareholders held within two years preceding the receipt of the request, and the shareholder failed to present the proposal, in person or by proxy, at the meeting; or

- (d) substantially the same proposal was submitted to shareholders in a management information circular or a dissident's information circular relating to a meeting of shareholders held within two years preceding the receipt of the shareholder's request and the proposal was defeated.

Where no liability

(6) No corporation or person acting on its behalf incurs any liability by reason only of circulating a proposal or statement in compliance with this section.

Where refusal to circulate proposal

(7) Where a corporation refuses to include a proposal in a management information circular, the corporation shall, within ten days after receiving the proposal, send notice to the shareholder submitting the proposal of its intention to omit the proposal from the management information circular and send to him a statement of the reasons for the refusal.

Idem

(8) Upon the application of a shareholder aggrieved by a corporation's refusal under subsection (7), the court may restrain the holding of the meeting to which the proposal is sought to be presented and make any further order it thinks fit.

Idem

(9) The corporation or any person aggrieved by a proposal may apply to the court for an order permitting the corporation to omit the proposal from the management information circular, and the court, if it is satisfied that subsection (5) applies, may make such order as it thinks fit.

Idem

(10) An applicant under subsection (8) or (9) shall give the Director notice of the application and the Director is entitled to appear and be heard in person or by counsel.

Interpretation

(11) In this section, "proposal" means a matter that a shareholder entitled to vote proposes to raise at a meeting of shareholders. R.S.O. 1980, c. 54, s. 100, *amended*.

List of shareholders

100.—(1) A corporation shall prepare a list of shareholders entitled to receive notice of a meeting, arranged in alphabetical order and showing the number of shares held by each shareholder, which list shall be prepared,

- (a) if a record date is fixed under subsection 95 (2), not later than ten days after such record date; or

- (b) if no record date is fixed,

- (i) at the close of business on the day immediately preceding the day on which notice is given, or
- (ii) where no notice is given, on the day on which the meeting is held.

(2) Where a corporation fixes a record date under subsection 95 (2), a person named in the list prepared under clause (1) (a) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that, ^{Entitlement to vote}

- (a) the person has transferred any of his shares after the record date; and
- (b) the transferee of those shares,
 - (i) produces properly endorsed share certificates, or
 - (ii) otherwise establishes that he owns the shares,

and demands, not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that his name be included in the list before the meeting,

in which case the transferee is entitled to vote his shares at the meeting.

(3) Where a corporation does not fix a record date under subsection 95 (2), a person named in a list prepared under clause (1) (b) is entitled to vote the shares shown opposite his name at the meeting to which the list relates, except to the extent that, ^{Idem}

- (a) the person has transferred any of his shares after the date on which a list referred to in subclause (1) (b) (i) is prepared; and
- (b) the transferee of those shares,
 - (i) produces properly endorsed share certificates, or
 - (ii) otherwise establishes that he owns the shares,

and demands not later than ten days before the meeting, or such shorter period before the meeting as the by-laws of the corporation may provide, that his name be included in the list before the meeting,

in which case the transferee is entitled to vote his shares at the meeting.

Examination
of list

(4) A shareholder may examine the list of shareholders,

(a) during usual business hours at the registered office of the corporation or at the place where its central securities register is maintained; and

(b) at the meeting of shareholders for which the list was prepared. *New.*

Quorum

101.—(1) Unless the by-laws otherwise provide, the holders of a majority of the shares entitled to vote at a meeting of shareholders, whether present in person or represented by proxy, constitute a quorum.

Idem

(2) If a quorum is present at the opening of a meeting of shareholders, the shareholders present may, unless the by-laws otherwise provide, proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

Idem

(3) If a quorum is not present at the time appointed for a meeting of shareholders, or within such reasonable time thereafter as the shareholders present may determine, the shareholders present may adjourn the meeting to a fixed time and place but may not transact any other business.

Where only one
shareholder

(4) If a corporation has only one shareholder, or only one holder of any class or series of shares, the shareholder present in person or by proxy constitutes a meeting. *New.*

Voting rights

102.—(1) Unless the articles otherwise provide, each share of a corporation entitles the holder thereof to one vote at a meeting of shareholders.

Representative

(2) Where a body corporate or association is a shareholder of a corporation, the corporation shall recognize any individual authorized by a resolution of the directors or governing body of the body corporate or association to represent it at meetings of shareholders of the corporation. R.S.O. 1980, c. 54, s. 110 (2), *amended.*

Idem

(3) An individual authorized as set out in subsection (2) may exercise on behalf of the body corporate or association he represents all the powers it could exercise if it were an individual shareholder. R.S.O. 1980, c. 54, s. 111 (1), *amended.*

Joint
shareholders

(4) Unless the by-laws otherwise provide, where two or more persons hold shares jointly, one of those holders present at a meeting of shareholders may in the absence of the others vote the shares, but if two or more of those persons are present, in person or by proxy, they shall vote as one on the shares jointly held by them. R.S.O. 1980, c. 54, s. 112, *amended.*

103.—(1) Unless the by-laws otherwise provide, voting at a meeting of shareholders shall be by show of hands, except where a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting. Manner of voting

(2) A shareholder or proxyholder may demand a ballot either before or after any vote by show of hands. Idem

(3) Unless a ballot is demanded, an entry in the minutes of a meeting of shareholders to the effect that the chairman declared a motion to be carried is admissible in evidence as *prima facie* proof of the fact without proof of the number or proportion of the votes recorded in favour of or against the motion. *New.* Entry in minutes

104.—(1) Except where a written statement is submitted by a director under subsection 123 (2) or where representations in writing are submitted by an auditor under subsection 149 (6), Resolution in lieu of meeting

(a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and

(b) a resolution in writing dealing with all matters required by this Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of this Act relating to that meeting of shareholders.

(2) A copy of every resolution referred to in subsection (1) shall be kept with the minutes of the meetings of shareholders. Copy of resolution kept with minutes
R.S.O. 1980, c. 54, s. 22 (1, 2), *amended*.

105.—(1) The holders of not less than 5 per cent of the issued shares of a corporation that carry the right to vote at a meeting sought to be held may requisition the directors to call a meeting of shareholders for the purposes stated in the requisition. Requisition for shareholders meeting

(2) The requisition referred to in subsection (1) shall state the business to be transacted at the meeting and shall be sent to the registered office of the corporation. Idem

(3) Upon receiving the requisition referred to in subsection (1), the directors shall call a meeting of shareholders to transact the business stated in the requisition unless, Duty of directors to call meeting

(a) a record date has been fixed under subsection 95 (2) and notice thereof has been given under subsection 95 (4);

(b) the directors have called a meeting of shareholders and have given notice thereof under section 96; or

(c) the business of the meeting as stated in the requisition includes matters described in clauses 99 (5) (b) to (d).

Where
requisitionist
may call
meeting

(4) Subject to subsection (3), if the directors do not within twenty-one days after receiving the requisition referred to in subsection (1) call a meeting, any shareholder who signed the requisition may call the meeting.

Calling of
meeting

(5) A meeting called under this section shall be called as nearly as possible in the manner in which meetings are to be called under the by-laws, this Part and Part VIII.

Repayment of
expenses

(6) The corporation shall reimburse the shareholders for the expenses reasonably incurred by them in requisitioning, calling and holding the meeting unless the shareholders have not acted in good faith and in the interest of the shareholders of the corporation generally. R.S.O. 1980, c. 54, s. 107, *amended*.

Requisition by
court

106.—(1) If for any reason it is impracticable to call a meeting of shareholders of a corporation in the manner in which meetings of those shareholders may be called or to conduct the meeting in the manner prescribed by the by-laws, the articles and this Act, or if for any other reason the court thinks fit, the court, upon the application of a director or a shareholder entitled to vote at the meeting, may order a meeting to be called, held and conducted in such manner as the court directs and upon such terms as to security for the costs of holding the meeting or otherwise as the court deems fit.

Power of court

(2) Without restricting the generality of subsection (1), the court may order that the quorum required by the by-laws, the articles or this Act be varied or dispensed with at a meeting called, held and conducted under this section.

Effect of
meeting

(3) A meeting called, held and conducted under this section is for all purposes a meeting of shareholders of the corporation duly called, held and conducted. R.S.O. 1980, c. 54, ss. 108, 109, *amended*.

Application to
court

107.—(1) A corporation, shareholder or director may apply to the court to determine any controversy with respect to an election or appointment of a director or auditor of the corporation.

Idem

(2) Upon an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a director or auditor whose election or appointment is challenged from acting pending determination of the dispute;
- (b) an order declaring the result of the disputed election or appointment;
- (c) an order requiring a new election or appointment and including in the order directions for the management of the business and affairs of the corporation until a new election is held or appointment made; and
- (d) an order determining the voting rights of shareholders and of persons claiming to own shares. *New.*

108.—(1) A written agreement between two or more shareholders may provide that in exercising voting rights the shares held by them shall be voted as therein provided. Agreement between shareholders

(2) A written agreement among all the shareholders of a corporation or among all the shareholders and one or more persons who are not shareholders may restrict in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of the corporation. Idem

(3) Where a person who is the beneficial owner of all the issued shares of a corporation makes a written declaration that restricts in whole or in part the powers of the directors to manage or supervise the management of the business and affairs of a corporation, the declaration shall be deemed to be a unanimous shareholder agreement. Unanimous shareholder agreement

(4) Subject to subsection 56 (3), a transferee of shares subject to a unanimous shareholder agreement shall be deemed to be a party to the agreement. Party to unanimous shareholder agreement

(5) A shareholder who is a party to a unanimous shareholder agreement has all the rights, powers, duties and liabilities of a director of the corporation, whether arising under this Act or otherwise, to which the agreement relates to the extent that the agreement restricts the discretion or powers of the directors to manage or supervise the management of the business and affairs of the corporation and the directors are thereby relieved of their duties and liabilities, including any liabilities under section 131, to the same extent. Where shareholder has power, etc., of director

(6) A unanimous shareholder agreement may, without restricting the generality of subsection (2), provide that, Matters that a unanimous shareholder agreement may provide

- (a) any amendment of the unanimous shareholder agreement may be effected in the manner specified therein; and
- (b) in the event that shareholders who are parties to the unanimous shareholder agreement are unable to agree on or resolve any matter pertaining to the agreement, the matter may be referred to arbitration under such procedures and conditions as are specified in the unanimous shareholder agreement. *New.*

PART VIII

PROXIES

Interpretation

109. In this Part,

- (a) “dissident’s information circular” means the circular referred to in clause 112 (1) (b);
- (b) “form of proxy” means a written or printed form that, upon completion and execution by or on behalf of a shareholder, becomes a proxy;
- (c) “management information circular” means the circular referred to in clause 112 (1) (a);
- (d) “proxy” means a completed and executed form of proxy by means of which a shareholder has appointed a proxyholder to attend and act on his behalf at a meeting of shareholders;
- (e) “solicit” and “solicitation” include,
 - (i) a request for a proxy whether or not accompanied by or included in a form of proxy,
 - (ii) a request to execute or not to execute a form of proxy or to revoke a proxy,
 - (iii) the sending of a form of proxy or other communication to a shareholder under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy, and
 - (iv) the sending of a form of proxy to a shareholder under section 111,

but do not include,

- (v) the sending of a form of proxy in response to an unsolicited request made by or on behalf of a shareholder,
 - (vi) the performance of administrative acts or professional services on behalf of a person soliciting a proxy,
 - (vii) the sending of material under section 48 of the *Securities Act*, R.S.O. 1980,
c. 466
 - (viii) a solicitation by a person in respect of shares of which he is the beneficial owner;
- (f) "solicitation by or on behalf of the management of a corporation" means a solicitation by any person under a resolution or the instructions of the directors of that corporation or a committee of such directors. R.S.O. 1980, c. 54, s. 113, *amended*.

110.—(1) Every shareholder entitled to vote at a meeting of shareholders may by means of a proxy appoint a proxyholder or one or more alternate proxyholders, who need not be shareholders, as his nominee to attend and act at the meeting in the manner, to the extent and with the authority conferred by the proxy. Proxies

(2) A proxy shall be executed by the shareholder or his attorney authorized in writing or, if the shareholder is a body corporate, by an officer or attorney thereof duly authorized and, in the case of a proxy appointing a proxyholder to attend and act at a meeting or meetings of shareholders of an offering corporation, ceases to be valid one year from its date. Execution and
termination

(3) Every form of proxy shall comply with the regulations. Form of
proxy

(4) A shareholder may revoke a proxy, Revocation

- (a) by depositing an instrument in writing executed by him or by his attorney authorized in writing,
 - (i) at the registered office of the corporation at any time up to and including the last business day preceding the day of the meeting, or any adjournment thereof, at which the proxy is to be used, or
 - (ii) with the chairman of the meeting on the day of the meeting or an adjournment thereof; or

(b) in any other manner permitted by law.

Time limit
for deposit

(5) The directors may by resolution fix a time not exceeding forty-eight hours, excluding Saturdays and holidays, preceding any meeting or adjourned meeting of shareholders before which time proxies to be used at that meeting must be deposited with the corporation or an agent thereof, and any period of time so fixed shall be specified in the notice calling the meeting. R.S.O. 1980, c. 54, s. 114, *amended*.

Mandatory
solicitation of
proxy

111. The management of an offering corporation shall, concurrently with or prior to sending notice of a meeting of shareholders, send a form of proxy to each shareholder who is entitled to receive notice of the meeting. R.S.O. 1980, c. 54, s. 115, *amended*.

Information
circular

112.—(1) No person shall solicit proxies in respect of an offering corporation unless,

- (a) in the case of solicitation by or on behalf of the management of the corporation, a management information circular in prescribed form, either as an appendix to or as a separate document accompanying the notice of the meeting; or
- (b) in the case of any other solicitation, a dissident's information circular in prescribed form,

is sent to the auditor of the corporation, to each shareholder whose proxy is solicited and, if clause (b) applies, to the corporation.

Filing copy

(2) A person, upon sending a management or dissident's information circular, shall concurrently file with the Commission,

- (a) in the case of a management information circular, a copy thereof together with a copy of the notice of meeting, form of proxy and of any other documents for use in connection with the meeting; and
- (b) in the case of a dissident's information circular, a copy thereof together with a copy of the form of proxy and of any other documents for use in connection with the meeting. R.S.O. 1980, c. 54, s. 116, *amended*.

Exemption
order
re ss. 111,
112

113. Upon the application of any interested person, the Commission may, if satisfied in the circumstances of the particular case that there is adequate justification for so doing, make an order, on such terms and conditions as the Commission may impose, exempting, in whole or in part, any person from the

requirements of section 111 or from the requirements of section 112. R.S.O. 1980, c. 54, s. 117 (2), *amended*.

114.—(1) A person who solicits a proxy and is appointed proxyholder shall attend in person or cause an alternate proxyholder to attend the meeting in respect of which the proxy is given and comply with the directions of the shareholder who appointed him. Proxyholder:

(2) A proxyholder or an alternate proxyholder has the same rights as the shareholder who appointed him to speak at a meeting of shareholders in respect of any matter, to vote by way of ballot at the meeting and, except where a proxyholder or an alternate proxyholder has conflicting instructions from more than one shareholder, to vote at such a meeting in respect of any matter by way of a show of hands. rights of proxyholder

(3) Notwithstanding subsections (1) and (2), where the chairman of a meeting of shareholders declares to the meeting that, to the best of his belief, if a ballot is conducted, the total number of votes attached to the shares represented at the meeting by proxy required to be voted against what will be the decision of the meeting in relation to any matter or group of matters is less than 5 per cent of all the votes that might be cast at the meeting on such ballot, and where a shareholder, proxyholder or alternate proxyholder does not demand a ballot, Vote

- (a) the chairman may conduct the vote in respect of that matter or group of matters by a show of hands; and
- (b) a proxyholder or alternate proxyholder may vote in respect of that matter or group of matters by a show of hands. *New.*

PART IX

DIRECTORS AND OFFICERS

115.—(1) Subject to any unanimous shareholder agreement, the directors shall manage or supervise the management of the business and affairs of a corporation. R.S.O. 1980, c. 54, s. 130, *amended*. Duties

- (2) The board of directors shall consist of, Board of directors
- (a) in the case of a corporation that is not an offering corporation, at least one individual; and
 - (b) in the case of a corporation that is an offering corporation, not fewer than three individuals.

(3) At least one-third of the directors of an offering corporation shall not be officers or employees of the corporation or any of its affiliates. R.S.O. 1980, c. 54, s. 120 (2), *amended*. Idem

- By-laws by resolution **116.**—(1) Unless the articles, the by-laws or a unanimous shareholder agreement otherwise provide, the directors may, by resolution, make, amend or repeal any by-laws that regulate the business or affairs of a corporation.
- Confirmation by shareholders (2) Where the directors make, amend or repeal a by-law under subsection (1), they shall submit the by-law, amendment or repeal to the shareholders at the next meeting of shareholders, and the shareholders may confirm, reject or amend the by-law, amendment or repeal.
- Effective date (3) Where a by-law is made, amended or repealed under subsection (1), the by-law, amendment or repeal is effective from the date of the resolution of the directors until it is confirmed, confirmed as amended or rejected by the shareholders under subsection (2) or until it ceases to be effective under subsection (4) and, where the by-law is confirmed or confirmed as amended, it continues in effect in the form in which it was so confirmed.
- Rejection, etc. (4) If a by-law or an amendment or repeal of a by-law is rejected by the shareholders, or if the directors do not submit the by-law, amendment or repeal to the shareholders as required under subsection (2), the by-law, amendment or repeal ceases to be effective on the date of such rejection or on the date of the meeting of shareholders at which it should have been submitted, as the case may be, and no subsequent resolution of the directors to make, amend or repeal a by-law having substantially the same purpose or effect is effective until it is confirmed or confirmed as amended by the shareholders.
- By-law re shareholder proposal (5) If a shareholder proposal to make, amend or repeal a by-law is made in accordance with section 99 and is adopted by shareholders at a meeting, the by-law, amendment or repeal is effective from the date of its adoption and requires no further confirmation.
- By-law need not be so described (6) A by-law need not be described as a by-law in a resolution referred to in this section. R.S.O. 1980, c. 54, s. 20, *amended*.
- First directors meeting **117.**—(1) After incorporation, a meeting of the directors of a corporation shall be held at which the directors may,
- (a) make by-laws;
 - (b) adopt forms of security certificates and corporate records;
 - (c) authorize the issue of securities;

- (d) appoint officers;
- (e) appoint one or more auditors to hold office until the first annual or special meeting of shareholders;
- (f) make banking arrangements; and
- (g) transact any other business.

(2) Any matter referred to in subsection (1) may be dealt with by the directors by a resolution in writing in accordance with subsection 129 (1). Resolution in writing

(3) Subsection (1) does not apply to a body corporate that is an amalgamated corporation under section 177 or that is continued under section 179. Where subs. (1) does not apply

(4) An incorporator or a director may call the meeting of directors referred to in subsection (1) by giving not less than five days notice thereof to each director, stating the time and place of the meeting. *New.* Calling meeting

118.—(1) The following persons are disqualified from being a director of a corporation: Director disqualification

1. A person who is less than eighteen years of age.
2. A person who is of unsound mind and has been so found by a court in Canada or elsewhere.
3. A person who is not an individual.
4. A person who has the status of bankrupt. R.S.O. 1980, c. 54, s. 123, *part, amended.*

(2) Unless the articles otherwise provide, a director of a corporation is not required to hold shares issued by the corporation. *New.* Holding shares

(3) A majority of the directors of every corporation other than a non-resident corporation shall be resident Canadians but where a corporation has only one or two directors, that director or one of the two directors, as the case may be, shall be a resident Canadian. R.S.O. 1980, c. 54, s. 120 (3), *amended.* Directors to be resident Canadians

119.—(1) Each director named in the articles shall hold office from the date of endorsement of the certificate of incorporation until the first meeting of shareholders. First directors

(2) No director named in the articles shall be permitted to resign his office unless at the time the resignation is to become effective a successor is elected or appointed. Idem

Idem	(3) The first directors of a corporation named in the articles have all the powers and duties and are subject to all the liabilities of directors.
Election of directors	(4) Subject to clause 120 (a), shareholders of a corporation shall elect, at the first meeting of shareholders and at each succeeding annual meeting at which an election of directors is required, directors to hold office for a term expiring not later than the close of the third annual meeting of shareholders following the election.
Term for directors	(5) It is not necessary that all directors elected at a meeting of shareholders hold office for the same term.
Idem	(6) A director not elected for an expressly stated term ceases to hold office at the close of the first annual meeting of shareholders following his election.
Idem	(7) Notwithstanding the provisions of this section, if directors are not elected at a meeting of shareholders the incumbent directors continue in office until their successors are elected.
Failure to elect required number of directors	(8) If a meeting of shareholders fails to elect the number of directors required by the articles or by section 125 by reason of the disqualification, incapacity or death of one or more candidates, the directors elected at that meeting, if they constitute a quorum, may exercise all the powers of the directors of the corporation pending the holding of a meeting of shareholders in accordance with subsection 124 (3). R.S.O. 1980, c. 54, ss. 121, 124, <i>amended</i> .
Cumulative voting for directors	<p>120. Where the articles provide for cumulative voting,</p> <p>(a) each shareholder entitled to vote at an election of directors has the right to cast a number of votes equal to the number of votes attached to the shares held by him multiplied by the number of directors to be elected, and he may cast all such votes in favour of one candidate or distribute them among the candidates in any manner;</p> <p>(b) a separate vote of shareholders shall be taken with respect to each candidate nominated for director unless a resolution is passed unanimously permitting two or more persons to be elected by a single resolution;</p> <p>(c) if a shareholder has voted for more than one candidate without specifying the distribution of his votes among the candidates, he is deemed to have distributed his votes equally among the candidates for whom he voted;</p>

- (d) if the number of candidates nominated for director exceeds the number of positions to be filled, the candidates who receive the least number of votes shall be eliminated until the number of candidates remaining equals the number of positions to be filled;
- (e) each director ceases to hold office at the close of the first annual meeting of shareholders following his election;
- (f) a director may not be removed from office if the votes cast against his removal would be sufficient to elect him and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected;
- (g) the number of directors required by the articles may not be decreased if the votes cast against the motion to decrease would be sufficient to elect a director and such votes could be voted cumulatively at an election at which the same total number of votes were cast and the number of directors required by the articles were then being elected; and
- (h) the articles shall require a fixed number and not a minimum and maximum number of directors. R.S.O. 1980, c. 54, ss. 125, 138, *amended*.

121.—(1) A director of a corporation ceases to hold office When director ceases to hold office when,

- (a) he dies or, subject to subsection 119 (2), resigns;
- (b) he is removed in accordance with section 122; or
- (c) he becomes disqualified under subsection 118 (1).

(2) A resignation of a director becomes effective at the time a Idem written resignation is received by the corporation or at the time specified in the resignation, whichever is later. *New*.

122.—(1) Subject to clause 120 (f) the shareholders of a Removal of directors corporation may by ordinary resolution at an annual or special meeting remove any director or directors from office.

(2) Where the holders of any class or series of shares of a Idem corporation have an exclusive right to elect one or more directors, a director so elected may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series.

Idem	(3) Subject to clauses 120 (a) to (d), a vacancy created by the removal of a director may be filled at the meeting of the shareholders at which the director is removed or, if not so filled, may be filled under section 124. R.S.O. 1980, c. 54, s. 138, <i>amended</i> .
Entitlement of director	123. —(1) A director of a corporation is entitled to receive notice of and to attend and be heard at every meeting of shareholders.
Idem	(2) A director who, <ul style="list-style-type: none"> (a) resigns; (b) receives a notice or otherwise learns of a meeting of shareholders called for the purpose of removing him from office; or (c) receives a notice or otherwise learns of a meeting of directors or shareholders at which another person is to be appointed or elected to fill the office of director, whether because of the resignation or removal of the director or because his term of office has expired or is about to expire, is entitled to submit to the corporation a written statement giving the reasons for his resignation or the reasons why he opposes any proposed action or resolution, as the case may be.
Distribution of statement	(3) Upon receiving a statement under subsection (2), a corporation shall forthwith send a copy of the statement to every shareholder entitled to receive notice of meetings of shareholders and to the Director unless the statement is included in or attached to a management information circular required by section 112.
No liability	(4) No corporation or person acting on its behalf incurs any liability by reason only of circulating a director's statement in compliance with subsection (3). <i>New</i> .
Vacancies	124. —(1) Notwithstanding subsection 126 (6), but subject to subsections (2), (4) and (5) of this section, a quorum of directors may fill a vacancy among the directors, except a vacancy resulting from, <ul style="list-style-type: none"> (a) an increase in the number of directors otherwise than in accordance with subsection (2), or in the maximum number of directors, as the case may be; or (b) a failure to elect the number of directors required to be elected at any meeting of shareholders.
Appointment of directors subsequent to annual meeting	(2) Where a special resolution passed under subsection 125 (2) empowers the directors of a corporation the articles of which

provide for a minimum and maximum number of directors to determine the number of directors, the directors may not, between meetings of shareholders, appoint an additional director if, after such appointment, the total number of directors would be greater than one and one-third times the number of directors required to have been elected at the last annual meeting of shareholders.

(3) If there is not a quorum of directors, or if there has been a failure to elect the number of directors required by the articles or by section 125, the directors then in office shall forthwith call a special meeting of shareholders to fill the vacancy and, if they fail to call a meeting or if there are no directors then in office, the meeting may be called by any shareholder.

Election of
directors to
make quorum

(4) Where the holders of any class or series of shares of a corporation have an exclusive right to elect one or more directors and a vacancy occurs among those directors,

Where elected
by class of
shareholders

- (a) subject to subsection (5), the remaining directors elected by that class or series may fill the vacancy except a vacancy resulting from an increase in the number of directors for that class or series or from a failure to elect the number of directors for that class or series; or
- (b) if there are no such remaining directors, any holder of shares of that class or series may call a meeting of the holders thereof for the purpose of filling the vacancy.

(5) The articles may provide that a vacancy among the directors shall only be filled by a vote of the shareholders, or by a vote of the holders of any class or series of shares having an exclusive right to elect one or more directors if the vacancy occurs among the directors elected by that class or series.

Idem, where
no quorum

(6) A director appointed or elected to fill a vacancy holds office for the unexpired term of his predecessor. R.S.O. 1980, c. 54, s. 128, *amended*.

Term

125.—(1) A corporation may increase or decrease the number, or the minimum or maximum number, of its directors in accordance with clause 167 (1) (*m*), but no decrease in the number of directors shall shorten the term of an incumbent director.

Change in
number of
directors

(2) Where a minimum and maximum number of directors of a corporation is provided for in its articles, the number of directors of the corporation and the number of directors to be elected at the annual meeting of the shareholders shall be such number as shall be determined from time to time by special resolution or, if the

Number of
directors

special resolution empowers the directors to determine the number, by resolution of the directors.

Filing of
special
resolution

(3) The corporation shall file with the Director a certified copy of a special resolution or resolution of the directors, as the case may be, referred to in subsection (2), within ten days after it is passed.

Validity

(4) Failure to comply with subsection (3) does not affect the validity of a special resolution or resolution of the directors therein referred to. R.S.O. 1980, c. 54, s. 122, *amended*.

Place of
meetings

126.—(1) Subject to subsection (2), a meeting of the board of directors shall be held at the place where the registered office of the corporation is located.

Exceptions

(2) Where the by-laws of the corporation so provide, a meeting of the board of directors may be held at any place within or outside Ontario, but, except where the corporation is a non-resident corporation or the articles or the by-laws otherwise provide, in any financial year of the corporation a majority of the meetings of the board of directors shall be held at a place within Canada.

Quorum

(3) Subject to the articles or by-laws and subsection (4), a majority of the number of directors or minimum number of directors required by the articles constitutes a quorum at any meeting of directors, but in no case shall a quorum be less than two-fifths of the number of directors or minimum number of directors, as the case may be.

Idem

(4) Where a corporation has fewer than three directors, both directors of the corporation must be present at any meeting of directors to constitute a quorum.

Idem

(5) Subject to the articles or by-laws, where there is a vacancy or vacancies in the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board remains in office.

Transacting
business

(6) Directors, other than directors of a non-resident corporation, shall not transact business at a meeting of directors unless a majority of directors present are resident Canadians.

Idem

(7) Notwithstanding subsection (6), directors may transact business at a meeting of directors where a majority of resident Canadian directors is not present if,

- (a) a resident Canadian director who is unable to be present approves in writing or by telephone or other communications facilities the business transacted at the meeting; and

- (b) a majority of resident Canadian directors would have been present had that director been present at the meeting.

(8) In addition to any other provision in the articles or by-laws of a corporation for calling meetings of directors, a quorum of the directors may, at any time, call a meeting of the directors for the transaction of any business the general nature of which is specified in the notice calling the meeting. Calling meeting of directors

(9) In the absence of any other provision in that behalf in the by-laws of the corporation, notice of the time and place for the holding of the meeting called under subsection (8) shall be given to every director of the corporation by sending the notice ten days or more before the date of the meeting to his latest address as shown on the records of the corporation. Notice

(10) A director may in any manner and at any time waive a notice of a meeting of directors and attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called. Waiver of notice

(11) Notice of an adjourned meeting of directors is not required to be given if the time and place of the adjourned meeting is announced at the original meeting. Adjourned meeting

(12) Where a corporation has only one director, that director may constitute a meeting. Where one director

(13) Unless the by-laws otherwise provide, if all the directors of a corporation present at or participating in the meeting consent, a meeting of directors or of a committee of directors may be held by means of such telephone, electronic or other communication facilities as permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously, and a director participating in such a meeting by such means is deemed for the purposes of this Act to be present at that meeting. Meeting by telephone, etc.

(14) If a majority of the directors participating in a meeting held under subsection (13) are then in Canada, the meeting shall be deemed to have been held in Canada. R.S.O. 1980, c. 54, s. 129, *amended*. Place of meeting by telephone

127.—(1) Subject to the articles or by-laws, directors of a corporation may appoint from their number a managing director, Delegation by directors

who is a resident Canadian, or a committee of directors and delegate to such managing director or committee any of the powers of the directors.

Idem

(2) If the directors of a corporation other than a non-resident corporation, appoint a committee of directors, a majority of the members of the committee shall be resident Canadians.

Limitations
on authority

(3) Notwithstanding subsection (1), no managing director and no committee of directors has authority to,

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or in the office of auditor or appoint or remove any of the chief executive officer, however designated, the chief financial officer, however designated, the chairman or the president of the corporation;
- (c) subject to section 183, issue securities except in the manner and on the terms authorized by the directors;
- (d) declare dividends;
- (e) purchase, redeem or otherwise acquire shares issued by the corporation;
- (f) pay a commission referred to in section 37;
- (g) approve a management information circular referred to in Part VIII;
- (h) approve a take-over bid circular, directors' circular, or issuer bid circular referred to in Part XIX of the *Securities Act*;
- (i) approve any financial statements referred to in clause 153 (1) (b) of the Act and Part XVII of the *Securities Act*; or
- (j) adopt, amend or repeal by-laws. R.S.O. 1980, c. 54, s. 131, *amended*.

R.S.O. 1980,
c. 466Validity of acts
of directors and
officers

128. An act done by a director or by an officer is not invalid by reason only of any defect that is thereafter discovered in his appointment, election or qualification. R.S.O. 1980, c. 54, s. 143.

129.—(1) A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or a committee of directors, is as valid as if it had been passed at a meeting of directors or a committee of directors. R.S.O. 1980, c. 54, s. 22 (1), *amended*. Resolutions in writing

(2) A copy of every resolution passed under subsection (1) shall be kept with the minutes of the proceedings of the directors or committee of directors. *New*. Copy to be kept

130.—(1) Directors of a corporation who vote for or consent to a resolution authorizing the issue of a share for a consideration other than money contrary to section 23 are jointly and severally liable to the corporation to make good any amount by which the consideration received is less than the fair equivalent of the money that the corporation would have received if the share had been issued for money on the date of the resolution. *New*. Liability of directors

(2) Directors of a corporation who vote for or consent to a resolution authorizing, Idem

- (a) any financial assistance contrary to section 20;
- (b) a purchase, redemption or other acquisition of shares contrary to section 30, 31 or 32;
- (c) a commission contrary to section 37;
- (d) a payment of a dividend contrary to section 38;
- (e) a payment of an indemnity contrary to section 136; or
- (f) a payment to a shareholder contrary to section 184 or 247,

are jointly and severally liable to restore to the corporation any amounts so distributed or paid and not otherwise recovered by the corporation.

(3) A director who has satisfied a judgment rendered under this section is entitled to contribution from the other directors who voted for or consented to the unlawful act upon which the judgment was founded. Joint liability

(4) A director liable under subsection (2) is entitled to apply to the court for an order compelling a shareholder or other recipient to pay or deliver to the director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 20, 30, 31, 32, 37, 38, 136, 184 or 247. Application to court

What court
may order

(5) In connection with an application under subsection (4), the court may, if it is satisfied that it is equitable to do so,

- (a) order a shareholder or other recipient to pay or deliver to a director any money or property that was paid or distributed to the shareholder or other recipient contrary to section 20, 30, 31, 32, 37, 38, 136, 184 or 247;
- (b) order a corporation to return or issue shares to a person from whom the corporation has purchased, redeemed or otherwise acquired shares; or
- (c) make any further order it thinks fit.

Exception to
subs. (1)

(6) A director is not liable under subsection (1) if he proves that he did not know and could not reasonably have known that the share was issued for a consideration less than the fair equivalent of the money that the corporation would have received if the share had been issued for money.

Time limitation

(7) An action to enforce a liability imposed by this section may not be commenced after two years from the date of the resolution authorizing the action complained of. R.S.O. 1980, c. 54, ss. 133, 134, 144, *amended*.

Directors'
liability
to employees
for wages

131.—(1) The directors of a corporation are jointly and severally liable to the employees of the corporation for all debts not exceeding six months' wages that become payable while they are directors for services performed for the corporation and for the vacation pay accrued while they are directors for not more than twelve months under the *Employment Standards Act*, and the regulations thereunder, or under any collective agreement made by the corporation.

R.S.O. 1980,
c. 137

Limitation

(2) A director is liable under subsection (1) only if,

- (a) he is sued while he is a director or within six months after he ceases to be a director; and
- (b) the action against the director is commenced within six months after the debts became payable, and
 - (i) the corporation is sued in the action against the director and execution against the corporation is returned unsatisfied in whole or in part, or
 - (ii) before or after the action is commenced the corporation goes into liquidation, is ordered to be wound up or makes an authorized assignment under the *Bankruptcy Act* (Canada), or a receiving order under the *Bankruptcy Act* (Canada) is made against it, and in any such case, the claim for the debts is proved.

R.S.C. 1970,
c. B-4

(3) Where execution referred to in clause (2) (b) has issued, the ^{Idem} amount recoverable from a director is the amount remaining unsatisfied after execution.

(4) Where a director pays a debt under subsection (1) that is ^{Rights of director who pays debt} proved in liquidation and dissolution or bankruptcy proceedings, he is entitled to any preference that the employee would have been entitled to, and where a judgment has been obtained he is entitled to an assignment of the judgment.

(5) A director who has satisfied a claim under this section is ^{Idem} entitled to contribution from the other directors who were liable for the claim. R.S.O. 1980, c. 54, s. 137, *amended*.

132.—(1) A director or officer of a corporation who, ^{Disclosure: conflict of interest}

- (a) is a party to a material contract or transaction or proposed material contract or transaction with the corporation; or
- (b) is a director or an officer of, or has a material interest in, any person who is a party to a material contract or transaction or proposed material contract or transaction with the corporation,

shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his interest.

(2) The disclosure required by subsection (1) shall be made, in ^{by director} the case of a director,

- (a) at the meeting at which a proposed contract or transaction is first considered;
- (b) if the director was not then interested in a proposed contract or transaction, at the first meeting after he becomes so interested;
- (c) if the director becomes interested after a contract is made or a transaction is entered into, at the first meeting after he becomes so interested; or
- (d) if a person who is interested in a contract or transaction later becomes a director, at the first meeting after he becomes a director.

by officer

(3) The disclosure required by subsection (1) shall be made, in the case of an officer who is not a director,

- (a) forthwith after he becomes aware that the contract or transaction or proposed contract or transaction is to be considered or has been considered at a meeting of directors;
- (b) if the officer becomes interested after a contract is made or a transaction is entered into, forthwith after he becomes so interested; or
- (c) if a person who is interested in a contract or transaction later becomes an officer, forthwith after he becomes an officer.

Where
contract or
transaction
does not
require
approval

(4) Notwithstanding subsections (2) and (3), where subsection (1) applies to a director or officer in respect of a material contract or transaction or proposed material contract or transaction that, in the ordinary course of the corporation's business, would not require approval by the directors or shareholders, the director or officer shall disclose in writing to the corporation or request to have entered in the minutes of meetings of directors the nature and extent of his interest forthwith after the director or officer becomes aware of the contract or transaction or proposed contract or transaction.

Director
not to vote

(5) A director referred to in subsection (1) shall not vote on any resolution to approve the contract or transaction unless the contract or transaction is,

- (a) an arrangement by way of security for money lent to or obligations undertaken by him for the benefit of the corporation or an affiliate;
- (b) one relating primarily to his remuneration as a director, officer, employee or agent of the corporation or an affiliate;
- (c) one for indemnity or insurance under section 136; or
- (d) one with an affiliate. *New.*

General notice
of interest

(6) For the purposes of this section, a general notice to the directors by a director or officer disclosing that he is a director or officer of or has a material interest in a person and is to be regarded as interested in any contract made or any transaction entered into with that person, is a sufficient disclosure of interest in relation to any contract so made or transaction so entered into. R.S.O. 1980, c. 54, s. 132 (6), *amended*.

(7) Where a material contract is made or a material transaction is entered into between a corporation and a director or officer of the corporation, or between a corporation and another person of which a director or officer of the corporation is a director or officer or in which he has a material interest, Effect of disclosure

(a) the director or officer is not accountable to the corporation or its shareholders for any profit or gain realized from the contract or transaction; and

(b) the contract or transaction is neither void nor voidable,

by reason only of that relationship or by reason only that the director is present at or is counted to determine the presence of a quorum at the meeting of directors that authorized the contract or transaction, if the director or officer disclosed his interest in accordance with subsection (2), (3), (4) or (6), as the case may be, and the contract or transaction was reasonable and fair to the corporation at the time it was so approved. R.S.O. 1980, c. 54, s. 132 (4), *amended*.

(8) Notwithstanding anything in this section, a director or officer, acting honestly and in good faith, is not accountable to the corporation or to its shareholders for any profit or gain realized from any such contract or transaction by reason only of his holding the office of director or officer, and the contract or transaction, if it was reasonable and fair to the corporation at the time it was approved, is not by reason only of the director's or officer's interest therein void or voidable, where, Confirmation by shareholders

(a) the contract or transaction is confirmed or approved by special resolution at a meeting of the shareholders duly called for that purpose; and

(b) the nature and extent of the director's or officer's interest in the contract or transaction are disclosed in reasonable detail in the notice calling the meeting or in the information circular required by section 112.

(9) Subject to subsections (7) and (8), where a director or officer of a corporation fails to disclose his interest in a material contract or transaction in accordance with this section or otherwise fails to comply with this section, the corporation or a shareholder of the corporation, or, in the case of an offering corporation, the Commission may apply to the court for an order setting aside the contract or transaction and directing that the director or officer account to the corporation for any profit or gain realized and upon such application the court may so order or make such other order as it thinks fit. *New*. Court setting aside contract

133. Subject to the articles, the by-laws or any unanimous shareholder agreement, Officers

- (a) the directors may designate the offices of the corporation, appoint officers, specify their duties and delegate to them powers to manage the business and affairs of the corporation, except, subject to section 183, powers to do anything referred to in subsection 127 (3);
- (b) a director may be appointed to any office of the corporation; and
- (c) two or more offices of the corporation may be held by the same person. *New.*

Standards of care, etc., of directors, etc.

134.—(1) Every director and officer of a corporation in exercising his powers and discharging his duties shall,

- (a) act honestly and in good faith with a view to the best interests of the corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. R.S.O. 1980, c. 54, s. 142, *amended*.

Duty to comply with Act, etc.

(2) Every director and officer of a corporation shall comply with this Act, the regulations, articles, by-laws and any unanimous shareholder agreement.

Can not contract out of liability

(3) Subject to subsection 108 (5), no provision in a contract, the articles, the by-laws or a resolution relieves a director or officer from the duty to act in accordance with this Act and the regulations or relieves him from liability for a breach thereof. *New.*

Consent of director at meeting

135.—(1) A director who is present at a meeting of directors or committee of directors is deemed to have consented to any resolution passed or action taken thereat unless,

- (a) he requests that his dissent be or his dissent is entered in the minutes of the meeting;
- (b) he sends his written dissent to the secretary of the meeting before the meeting is terminated; or
- (c) he sends his dissent by registered mail or delivers it to the registered office of the corporation immediately after the meeting is terminated.

Idem

(2) A director who votes for or consents to a resolution is not entitled to dissent under subsection (1).

Idem

(3) A director who was not present at a meeting at which a resolution was passed or action taken is deemed to have consented

thereto unless within seven days after he becomes aware of the resolution he,

- (a) causes his dissent to be placed with the minutes of the meeting; or
- (b) sends his dissent by registered mail or delivers it to the registered office of the corporation.

(4) A director is not liable under section 130 or 134 if he relies in good faith upon, Entitled to rely on statements, etc.

- (a) financial statements of the corporation represented to him by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) a report of a lawyer, accountant, engineer, appraiser or other person whose profession lends credibility to a statement made by him. R.S.O. 1980, c. 54, s. 135, *amended*.

136.—(1) A corporation may indemnify a director or officer of the corporation, a former director or officer of the corporation or a person who acts or acted at the corporation's request as a director or officer of a body corporate of which the corporation is or was a shareholder or creditor, and his heirs and legal representatives, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him in respect of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of such corporation or body corporate, if, indemnification of directors

- (a) he acted honestly and in good faith with a view to the best interests of the corporation; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he had reasonable grounds for believing that his conduct was lawful.

(2) A corporation may, with the approval of the court, indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the corporation or body corporate to procure a judgment in its favour, to which he is made a party by reason of being or having been a director or an officer of the corporation or body corporate, against all costs, charges and Idem

expenses reasonably incurred by him in connection with such action if he fulfils the conditions set out in clauses (1) (a) and (b).

Idem (3) Notwithstanding anything in this section, a person referred to in subsection (1) is entitled to indemnity from the corporation in respect of all costs, charges and expenses reasonably incurred by him in connection with the defence of any civil, criminal or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of the corporation or body corporate, if the person seeking indemnity,

(a) was substantially successful on the merits in his defence of the action or proceeding; and

(b) fulfils the conditions set out in clauses (1) (a) and (b).

Liability insurance (4) A corporation may purchase and maintain insurance for the benefit of any person referred to in subsection (1) against any liability incurred by him,

(a) in his capacity as a director or officer of the corporation, except where the liability relates to his failure to act honestly and in good faith with a view to the best interests of the corporation; or

(b) in his capacity as a director or officer of another body corporate where he acts or acted in that capacity at the corporation's request, except where the liability relates to his failure to act honestly and in good faith with a view to the best interests of the body corporate.

Application to court (5) A corporation or a person referred to in subsection (1) may apply to the court for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.

Idem (6) Upon an application under subsection (5), the court may order notice to be given to any interested person and such person is entitled to appear and be heard in person or by counsel. R.S.O. 1980, c. 54, s. 145, *amended*.

Remuneration of directors **137.** Subject to the articles, the by-laws or any unanimous shareholder agreement, the directors of a corporation may fix the remuneration of the directors, officers and employees of the corporation. R.S.O. 1980, c. 54, s. 21 (1), *amended*.

PART X

INSIDER LIABILITY

138.—(1) In this Part,

Interpretation

(a) “corporation” means a corporation that is not an offering corporation;

(b) “insider” means, with respect to a corporation,

(i) the corporation,

(ii) an affiliate of the corporation,

(iii) a director or officer of the corporation,

(iv) a person who beneficially owns, directly or indirectly, more than 10 per cent of the voting securities of the corporation or who exercises control or direction over more than 10 per cent of the votes attached to the voting securities of the corporation,

(v) a person employed or retained by the corporation, or

(vi) a person who receives specific confidential information from a person described in this clause or in subsection (3), including a person described in this subclause, and who has knowledge that the person giving the information is a person described in this clause or in subsection (3), including a person described in this subclause;

(c) “security” includes a warrant.

(2) For the purposes of this Part,

Insider

(a) a director or officer of a body corporate that is an insider of a corporation is deemed to be an insider of the corporation;

(b) a director or officer of a body corporate that is a subsidiary is deemed to be an insider of its holding corporation;

- (c) a person is deemed to own beneficially shares beneficially owned by a body corporate controlled by him directly or indirectly; and
- (d) a body corporate is deemed to own beneficially shares beneficially owned by its affiliates.

Idem

(3) For the purposes of this Part,

- (a) where a body corporate becomes an insider of a corporation, or enters into a business combination with a corporation, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in subclause (1) (b) (iv) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he was a director, an officer or such a shareholder of the body corporate; and
- (b) where a corporation becomes an insider of a body corporate, or enters into a business combination with a body corporate, a director or an officer of the body corporate or a shareholder of the body corporate who is a person referred to in subclause (1) (b) (iv) is deemed to have been an insider of the corporation for the previous six months or for such shorter period as he was a director, an officer or such a shareholder of the body corporate.

Business combination

- (4) In subsection (3), “business combination” means an acquisition of all or substantially all the property of one body corporate by another or an amalgamation of two or more bodies corporate.

Liability of insider

- (5) An insider who, in connection with a transaction in a security of the corporation or any of its affiliates, makes use of any specific confidential information for his own benefit or advantage that, if generally known, might reasonably be expected to affect materially the value of the security,

- (a) is liable to compensate any person for any direct loss suffered by that person as a result of the transaction, unless the information was known or in the exercise of reasonable diligence should have been known to that person; and
- (b) is accountable to the corporation for any direct benefit or advantage received or receivable by the insider as a result of the transaction.

(6) An action to enforce a right created by subsection (5) may be commenced only within two years after discovery of the facts that gave rise to the cause of action. *New.* Limitation period

PART XI

BOOKS AND RECORDS

139.—(1) Where this Act requires a record to be kept by a corporation, it may be kept in a bound or looseleaf book or may be entered or recorded by any system of mechanical or electronic data processing or any other information storage device. Records

(2) The corporation shall,

(a) take adequate precautions, appropriate to the means used, for guarding against the risk of falsifying the information recorded; and Guard against falsification of records

(b) provide means for making the information available in an accurate and intelligible form within a reasonable time to any person lawfully entitled to examine the records.

(3) The bound or looseleaf book or, where the record is not kept in a bound or looseleaf book, the information in the form in which it is made available under clause (2) (b) is admissible in evidence as *prima facie* proof, before and after dissolution of the corporation, of all facts stated therein. Admissibility of records in evidence

(4) No person shall remove, withhold or destroy information required by this Act or the regulations to be recorded, or, False information

(a) record or assist in recording any information in a record; or

(b) make information purporting to be accurate available in a form referred to in clause (2) (b),

knowing it to be untrue. R.S.O. 1980, c. 54, s. 149, *amended*.

140.—(1) A corporation shall prepare and maintain, at its registered office or at such other place in Ontario designated by the directors, Records

(a) the articles and the by-laws and all amendments thereto, and a copy of any unanimous shareholder agreement known to the directors;

(b) minutes of meetings and resolutions of shareholders;

(c) a register of directors in which are set out the names and residence addresses, while directors, including the street

and number, if any, of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director;

(d) a securities register complying with section 141.

Idem

(2) In addition to the records described in subsection (1), a corporation shall prepare and maintain,

(a) adequate accounting records; and

(b) records containing minutes of meetings and resolutions of the directors and any committee thereof,

but, provided the retention requirements of any taxing authority of Ontario, the government of Canada or any other jurisdiction to which the corporation is subject have been satisfied, the accounting records mentioned in clause (a) need only be retained by the corporation for six years from the end of the last fiscal period to which they relate.

Idem

(3) For the purposes of clause (1) (b) and subsection (2), where a body corporate is continued under this Act, "records" includes similar records required by law to be maintained by the body corporate before it was so continued. R.S.O. 1980, c. 54, ss. 150, 153, *amended*.

Securities
register

141.—(1) A corporation shall prepare and maintain at its registered office, or at any other place in Ontario designated by the directors, a securities register in which it records the securities issued by it in registered form, showing with respect to each class or series of securities,

(a) the names, alphabetically arranged of persons who,

(i) are or have been within six years registered as shareholders of the corporation, the address including the street and number, if any, of every such person while a holder, and the number and class of shares registered in the name of such holder,

(ii) are or have been within six years registered as holders of debt obligations of the corporation, the address including the street and number, if any, of every such person while a holder, and the class or series and principal amount of the debt obligations registered in the name of such holder, or

- (iii) are or have been within six years registered as holders of warrants of the corporation, other than warrants exercisable within one year from the date of issue, the address including the street and number, if any, of every such person while a registered holder, and the class or series and number of warrants registered in the name of such holder; and

- (b) the date and particulars of the issue of each security and warrant. R.S.O. 1980, c. 54, s. 150, *amended*.

(2) A corporation shall cause to be kept a register of transfers Register of transfers in which all transfers of securities issued by the corporation in registered form and the date and other particulars of each transfer shall be set out. R.S.O. 1980, c. 54, s. 151.

(3) In this section and in section 143, “registered form” has the Interpretation same meaning as in Part VI. *New*.

142. For each class of securities and warrants issued by it, Transfer agents a corporation may appoint,

- (a) a trustee, transfer agent or other agent to keep the securities register and the register of transfers and one or more persons or agents to keep branch registers; and
- (b) a registrar, trustee or agent to maintain a record of issued security certificates and warrants,

and, subject to section 48, one person may be appointed for the purposes of both clauses (a) and (b) in respect of all securities and warrants of the corporation or any class or classes thereof. R.S.O. 1980, c. 54, s. 152, *amended*.

143.—(1) The securities register and the register of transfers Where registers to be kept shall be kept at the registered office of a corporation or at such other places in Ontario designated by the directors, and the branch register or registers of transfers may be kept at such offices of the corporation or other places, either within or outside Ontario, designated by the directors.

(2) Registration of the transfer of a security or warrant of a Valid registration corporation in the register of transfers or a branch register of transfers is a complete and valid registration for all purposes.

Entry in
branch
transfer
register

(3) In each branch register of transfers there shall be recorded only the particulars of the transfers of securities or warrants registered in that branch register of transfers.

Entry in
register of
transfers

(4) Particulars of every transfer of securities and warrants registered in every branch register of transfers shall be recorded in the register of transfers.

Documents not
required to be
produced

(5) A corporation or a person appointed under section 142 is not required to produce,

(a) any security certificate or warrant that is not in registered form; or

(b) any security certificate or warrant that is in registered form after six years,

(i) in the case of a share certificate, from the date of its cancellation,

(ii) in the case of a warrant, from the date of its transfer or exercise, whichever occurs first, or

(iii) in the case of a certificate representing a debt obligation, from the date of cancellation of such certificate. R.S.O. 1980, c. 54, s. 153, *amended*.

Records open
to examination
by directors

144.—(1) The records mentioned in sections 140 and 141 shall, during normal business hours of a corporation, be open to examination by any director and shall, except as provided in sections 140 and 143 and in subsections (2) and (3) of this section, be kept at the registered office of the corporation.

Records of
account at
branch

(2) A corporation may keep at any place where it carries on business such parts of the accounting records as relate to the operations, business and assets and liabilities of the corporation carried on, supervised or accounted for at such place, but there shall be kept at the registered office of the corporation or such other place as is authorized under this section such records as will enable the directors to ascertain quarterly with reasonable accuracy the financial position of the corporation.

Order for
removal of
records

(3) Where a corporation,

(a) shows, to the satisfaction of the Director, the necessity of keeping all or any of the records mentioned in subsection (1) at a place other than the registered office of the corporation; and

(b) gives the Director adequate assurance, by surety bond or otherwise, that such records will be open for examination,

(i) at the registered office or some other place in Ontario designated by the Director, and

(ii) by any person who is entitled to examine them and who has applied to the Director for such an examination,

the Director may, by order and upon such terms as he thinks fit, permit the corporation to keep all or any of them at such place or places, other than the registered office, as he thinks fit.

(4) The Director may by order upon such terms as he thinks fit rescind any order made under subsection (3) or any order made by the Lieutenant Governor in Council or the Minister under a predecessor of that subsection. R.S.O. 1980, c. 54, s. 154, *amended*.

Rescission of orders made under subs. (3)

145.—(1) Shareholders and creditors of a corporation, their agents and legal representatives may examine the records referred to in subsection 140 (1) during the usual business hours of the corporation, and may take extracts therefrom, free of charge, and, where the corporation is an offering corporation, any other person may do so upon payment of a reasonable fee.

Examination of records by shareholders and creditors

(2) A shareholder of a corporation is entitled upon request and without charge to one copy of the articles and by-laws and of any unanimous shareholder agreement. R.S.O. 1980, c. 54, s. 155, *amended*.

Copy

146.—(1) Shareholders and creditors of a corporation, their agents and legal representatives and, where the corporation is an offering corporation, any other person, upon payment of a reasonable fee and upon sending to the corporation or its transfer agent the statutory declaration referred to in subsection (6), may require the corporation or its transfer agent to furnish a basic list setting out the names of the shareholders of the corporation, the number of shares of each class and series owned by each shareholder and the address of each shareholder, all as shown on the records of the corporation.

List of shareholders

(2) The basic list referred to in subsection (1) shall be furnished to the applicant as soon as is practicable and, when furnished, shall be as current as is practicable having regard to the form in which the securities register of the corporation is maintained, but, in any case, shall be furnished not more than ten days following the receipt by the corporation or its transfer agent of the statutory

Idem

declaration referred to in subsection (1) and shall be made up to a date not more than ten days before the date on which it is actually furnished.

Supplemental
lists

(3) A person requiring a corporation to supply a basic list may, if he states in the statutory declaration referred to in subsection (1) that he requires supplemental lists, require the corporation or its agent upon payment of a reasonable fee to furnish supplemental lists setting out any changes from the basic list in the names or addresses of the shareholders and the number of shares owned by each shareholder for each business day following the date to which the basic list is made up.

Idem

(4) The corporation or its agent shall furnish a supplemental list required under subsection (3),

(a) on the date the basic list is furnished, where the information relates to changes that took place prior to that date; and

(b) on the business day following the day to which the supplemental list relates, where the information relates to changes that take place on or after the date the basic list is furnished.

List of
option holders

(5) A person requiring a corporation to supply a basic or supplemental list may also require the corporation to include in that list the name and address of any known holder of an option or right to acquire shares of the corporation.

Statutory
declaration

(6) The statutory declaration required under subsection (1) shall state,

(a) the name and address including street and number, if any, of the applicant and whether the applicant is a shareholder, creditor or any other person referred to in the subsection;

(b) the name and address including street and number, if any, for service of the body corporate if the applicant is a body corporate; and

(c) that the basic list and any supplemental lists shall be used only as permitted under subsection (8).

Idem

(7) If the applicant is a body corporate, the statutory declaration shall be made by a director or officer of the body corporate.

Use of list

(8) A list of shareholders obtained under this section shall not be used by any person except in connection with,

- (a) an effort to influence the voting by shareholders of the corporation;
- (b) an offer to acquire shares of the corporation; or
- (c) any other matter relating to the affairs of the corporation. R.S.O. 1980, c. 54, s. 156, *amended*.

147. No person shall offer for sale or sell or purchase or otherwise traffic in a list or a copy of a list of all or any of the holders of securities or warrants of a corporation. R.S.O. 1980, c. 54, s. 158, *amended*. Trafficking
in lists

PART XII

AUDITORS AND FINANCIAL STATEMENTS

148.—(1) In respect of a financial year of a corporation, the corporation is exempt from the requirements of this Part regarding the appointment and duties of an auditor, Exemption
from audit
requirements

- (a) where,
 - (i) the corporation is not an offering corporation,
 - (ii) all of the shareholders of the corporation consent thereto in writing in respect of that year, and
 - (iii) the corporation has assets not exceeding \$2,500,000 and sales or gross operating revenues not exceeding \$5,000,000 as shown on the financial statement of the corporation for the preceding year; or
- (b) where the corporation has been exempted by the Director under subsection (2) in respect of that financial year.

(2) A corporation other than an offering corporation, all the shareholders of which consent thereto in writing, may apply to the Director for exemption from the requirements of this Part regarding the appointment and duties of an auditor in respect of a financial year, by filing an application in prescribed form together with such documents as may be prescribed, and after giving to the corporation and to such other persons whom he considers should be given the opportunity, an opportunity to be heard, the Director may, subject to the regulations, and upon such terms and conditions as he may impose, exempt the corporation and any of its affiliates from the audit requirements of this Part where, in his opinion to do so would not be prejudicial to the public interest. Idem

(3) For the purposes of subclause (1) (a) (iii), the assets and sales or gross operating revenues of a corporation include the Interpre-
tation

R.S.C. 1952, c. 148
 assets and sales or gross operating revenues of each of its affiliates resident in Canada for the purposes of the *Income Tax Act* (Canada). R.S.O. 1980, c. 54, s. 161, *amended*.

- Auditors** **149.**—(1) The shareholders of a corporation at their first annual or special meeting shall appoint one or more auditors to hold office until the close of the first or next annual meeting, as the case may be, and, if the shareholders fail to do so, the directors shall forthwith make such appointment or appointments.
- Idem** (2) The shareholders shall at each annual meeting appoint one or more auditors to hold office until the close of the next annual meeting and, if an appointment is not so made, the auditor in office continues in office until a successor is appointed.
- Casual vacancy** (3) The directors may fill any casual vacancy in the office of auditor, but, while such vacancy continues, the surviving or continuing auditor, if any, may act.
- Removal of auditor** (4) The shareholders may, except where the auditor has been appointed by order of the court under subsection (8), by resolution passed by a majority of the votes cast at a special meeting duly called for the purpose, remove an auditor before the expiration of his term of office, and shall by a majority of the votes cast at that meeting appoint another auditor in his stead for the remainder of his term.
- Notice to auditor** (5) Before calling a special meeting for the purpose specified in subsection (4) or an annual or special meeting where the board is not recommending the reappointment of the incumbent auditor, the corporation shall, fifteen days or more before the mailing of the notice of the meeting, give to the auditor,
- (a) written notice of the intention to call the meeting, specifying therein the date on which the notice of the meeting is proposed to be mailed; and
 - (b) a copy of all material proposed to be sent to shareholders in connection with the meeting.
- Right of auditor to make representations** (6) An auditor has the right to make to the corporation, three days or more before the mailing of the notice of the meeting, representations in writing, concerning,
- (a) his proposed removal as auditor;
 - (b) the appointment or election of another person to fill the office of auditor; or
 - (c) his resignation as auditor,

and the corporation, at its expense, shall forward with the notice of the meeting a copy of such representations to each shareholder entitled to receive notice of the meeting.

(7) The remuneration of an auditor appointed by the shareholders shall be fixed by the shareholders, or by the directors if they are authorized so to do by the shareholders, and the remuneration of an auditor appointed by the directors shall be fixed by the directors. Remuneration

(8) If a corporation does not have an auditor, the court may, upon the application of a shareholder or the Director, appoint and fix the remuneration of an auditor to hold office until an auditor is appointed by the shareholders. Appointment by court

(9) The corporation shall give notice in writing to an auditor of his appointment forthwith after the appointment is made. Notice of appointment
R.S.O. 1980, c. 54, s. 161, *amended*.

150.—(1) The auditor of a corporation is entitled to receive notice of every meeting of shareholders and, at the expense of the corporation, to attend and be heard thereat on matters relating to his duties as auditor. Auditor may attend shareholders' meetings

(2) If any director or shareholder of a corporation, whether or not the shareholder is entitled to vote at the meeting, gives written notice, not less than five days or more before a meeting of shareholders, to the auditor or a former auditor of the corporation, the auditor or former auditor shall attend the meeting at the expense of the corporation and answer questions relating to his duties as auditor. Auditor's attendance may be required

(3) A director or shareholder who sends a notice referred to in subsection (2) shall send concurrently a copy of the notice to the corporation. Notice to corporation

(4) No person shall accept appointment or consent to be appointed as auditor of a corporation if he is replacing an auditor who has resigned, been removed or whose term of office has expired or is about to expire until he has requested and received from that auditor a written statement of the circumstances and the reasons why, in that auditor's opinion, he is to be replaced. Replacing auditor

(5) Notwithstanding subsection (4), a person otherwise qualified may accept appointment or consent to be appointed as auditor of a corporation if, within fifteen days after making the request referred to in that subsection, he does not receive a reply. Idem

(6) Any interested person may apply to the court for an order declaring an auditor to be disqualified and the office of auditor to Idem

be vacant if the auditor has not complied with subsection (4), unless subsection (5) applies with respect to the appointment of the auditor.

Statement by
auditor
privileged

(7) Any oral or written statement or report made under this Act by the auditor or former auditor of the corporation has qualified privilege. R.S.O. 1980, c. 54, s. 164, *part, amended*.

Disqualification
as auditor

151.—(1) Subject to subsection (5), a person is disqualified from being an auditor of a corporation if he is not independent of the corporation, all of its affiliates, or of the directors or officers of the corporation and its affiliates.

Independence

(2) For the purposes of this section,

(a) independence is a question of fact; and

(b) a person is deemed not to be independent if he or his business partner,

(i) is a business partner, director, officer or employee of the corporation or any of its affiliates, or a business partner of any director, officer or employee of the corporation or any of its affiliates,

(ii) beneficially owns directly or indirectly or exercises control or direction over a material interest in the securities of the corporation or any of its affiliates, or

(iii) has been a receiver, receiver and manager, liquidator or trustee in bankruptcy of the corporation or any of its affiliates within two years of his proposed appointment as auditor of the corporation.

Resignation
by auditor

(3) An auditor who becomes disqualified under this section shall, subject to subsection (5), resign forthwith upon becoming aware of his disqualification.

Application to
court

(4) An interested person may apply to the court for an order declaring an auditor to be disqualified under this section and the office of auditor to be vacant.

Idem

(5) An interested person may apply to the court for an order exempting an auditor from disqualification under this section and the court may, if it is satisfied that an exemption would not unfairly prejudice the shareholders, make an exemption order on

such terms as it thinks fit, which order may have retrospective effect. R.S.O. 1980, c. 54, s. 163, *amended*.

152.—(1) An auditor of a corporation shall make such examination of the financial statements required by this Act to be placed before shareholders as is necessary to enable him to report thereon and he shall report as prescribed and in accordance with generally accepted auditing standards. Examination by auditor

(2) A director or an officer of a corporation shall forthwith notify the audit committee and the auditor or the former auditor of any error or misstatement of which he becomes aware in a financial statement that the auditor or the former auditor has reported upon if the error or misstatement in all the circumstances appears to be significant. Reporting error

(3) If the auditor or former auditor of a corporation is notified or becomes aware of an error or misstatement in a financial statement upon which he has reported, and if in his opinion the error or misstatement is material, he shall inform each director accordingly. Idem

(4) When under subsection (3) the auditor or former auditor informs the directors of an error or misstatement in a financial statement, the directors shall within a reasonable time, Amendment of auditor's report

- (a) prepare and issue revised financial statements; or
- (b) otherwise inform the shareholders.

(5) Upon the demand of an auditor of a corporation, the present or former directors, officers, employees or agents of the corporation shall furnish such, Right of access

- (a) information and explanations; and
- (b) access to records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries,

as are, in the opinion of the auditor, necessary to enable him to make the examination and report required under this section and that the directors, officers, employees or agents are reasonably able to furnish.

(6) Upon the demand of the auditor of a corporation, the directors of the corporation shall, Furnishing information

- (a) obtain from the present or former directors, officers, employees and agents of any subsidiary of the corporation the information and explanations that the present or

former directors, officers, employees and agents are reasonably able to furnish and that are, in the opinion of the auditor, necessary to enable him to make the examination and report required under this section; and

- (b) furnish the information and explanations so obtained to the auditor.

Idem

(7) Any oral or written communication under this section between the auditor or former auditor of a corporation and its present or former directors, officers, employees or agents or those of any subsidiary of the corporation, has qualified privilege. R.S.O. 1980, c. 54, s. 164, *part, amended*.

Information to
be laid before
annual meeting

153.—(1) The directors shall place before each annual meeting of shareholders,

- (a) in the case of a corporation that is not an offering corporation, financial statements for the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting;

- (b) in the case of a corporation that is an offering corporation, the financial statements required to be filed under the *Securities Act* and the regulations thereunder relating separately to,

R.S.O. 1980,
c. 466

- (i) the period that began on the date the corporation came into existence and ended not more than six months before the annual meeting or, if the corporation has completed a financial year, the period that began immediately after the end of the last completed financial year and ended not more than six months before the annual meeting, and

- (ii) the immediately preceding financial year if any;

- (c) the report of the auditor, if any, to the shareholders; and

- (d) any further information respecting the financial position of the corporation and the results of its operations required by the articles, the by-laws or any unanimous shareholder agreement.

Auditor's
report

(2) Except as provided in subsection 104 (1), the report of the auditor to the shareholders shall be open to inspection at the annual meeting by any shareholder.

(3) A corporation shall, not less than twenty-one days, in the case of an offering corporation, and ten days, in the case of a corporation that is not an offering corporation, before each annual meeting of shareholders or before the signing of a resolution under clause 104 (1) (b) in lieu of the annual meeting, send a copy of the documents referred to in this section to each shareholder, except to a shareholder who has informed the corporation in writing that he does not wish to receive a copy of those documents. R.S.O. 1980, c. 54, s. 165, *amended*.

Copy of documents to shareholders

154. The financial statements required under this Act shall be prepared as prescribed by regulation and in accordance with generally accepted accounting principles. *New*.

Preparation of financial statements

155. An offering corporation shall prepare and file with the Commission the financial statements required under Part XVII of the *Securities Act*. *New*.

Filing by offering corporation
R.S.O. 1980, c. 466

156.—(1) True copies of the latest financial statements of each subsidiary of a holding corporation shall be kept on hand by the holding corporation at its registered office and shall be open to examination by the shareholders of the holding corporation and their agents and legal representatives who may make extracts therefrom free of charge on request during the normal business hours of the holding corporation.

Financial statements of subsidiaries

(2) A corporation may, within fifteen days after a request to examine under subsection (1), apply to the court for an order barring the right of any person to so examine, and the court may, if satisfied that such examination would be detrimental to the corporation or a subsidiary body corporate, bar such right and make any further order it thinks fit. R.S.O. 1980, c. 54, s. 170 (3), *amended*.

Application to court

157.—(1) A corporation that is an offering corporation shall, and any other corporation may, have an audit committee composed of not fewer than three directors of the corporation, a majority of whom are not officers or employees of the corporation or any of its affiliates, to hold office until the next annual meeting of the shareholders.

Audit committee

(2) An audit committee shall review the financial statements of the corporation and shall report thereon to the board of directors of the corporation before such financial statements are approved under section 158.

Idem

(3) The auditor of a corporation is entitled to receive notice of every meeting of the audit committee and, at the expense of the corporation, to attend and be heard thereat, and, if so requested

Auditor may attend committee meetings

by a member of the audit committee, shall attend every meeting of the committee held during the term of office of the auditor.

Calling
meetings of
committee

(4) The auditor of a corporation or a member of the audit committee may call a meeting of the committee.

Right of
auditor to be
heard

(5) The auditor of a corporation shall be entitled to attend at the expense of the corporation and be heard at meetings of the board of directors of the corporation on matters relating to his duties as auditor. R.S.O. 1980, c. 54, s. 173, *amended*.

Approval by
directors

158.—(1) The financial statements shall be approved by the board of directors and the approval shall be evidenced by the signature at the foot of the balance sheet by two of the directors duly authorized to sign or by the director where there is only one, and the auditor's report, unless the corporation is exempt under section 148, shall be attached to or accompany the financial statements. R.S.O. 1980, c. 54, s. 174.

Publishing,
etc., copies of
financial
statements

(2) A corporation shall not issue, publish or circulate copies of the financial statements referred to in section 153 unless the financial statements are,

(a) approved and signed in accordance with subsection (1); and

(b) accompanied by the report of the auditor of the corporation, if any. *New*.

Interim
financial
statement
R.S.O. 1980,
c. 466

159.—(1) An offering corporation shall send to each shareholder a copy of an interim financial statement required to be filed under the *Securities Act* and the regulations thereunder.

Idem

(2) The interim financial statement required by subsection (1) shall be sent to each shareholder, within sixty days of the date to which it is made up, at his latest address as shown on the records of the corporation. R.S.O. 1980, c. 54, s. 176.

PART XIII

INVESTIGATION

Investigation

160.—(1) A security holder of a corporation and, in the case of an offering corporation, the Commission may apply, *ex parte* or upon such notice as the court may require, to the court for an order directing an investigation to be made of the corporation and any of its affiliates.

(2) Where, upon an application under subsection (1), it ^{Idem} appears to the court that,

- (a) the business of the corporation or any of its affiliates is or has been carried on with intent to defraud any person;
- (b) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted, or the powers of the directors are or have been exercised, in a manner that is oppressive or unfairly prejudicial to, or that unfairly disregards, the interests of a security holder;
- (c) the corporation or any of its affiliates was formed for a fraudulent or unlawful purpose or is to be dissolved for a fraudulent or unlawful purpose; or
- (d) persons concerned with the formation, business or affairs of the corporation or any of its affiliates have in connection therewith acted fraudulently or dishonestly,

the court may order an investigation to be made of the corporation and any of its affiliates.

(3) Where a security holder makes an application under subsection (1), he shall give the Director and, if the corporation is an offering corporation, the Commission, reasonable notice thereof and the Director and, if the corporation is an offering corporation, the Commission are entitled to appear and be heard in person or by counsel. ^{Notice}

(4) An applicant under this section is not required to give security for costs. ^{Security for costs not required}

(5) An *ex parte* application under this section shall be heard *in camera*. ^{*Ex parte* application}

(6) No person may publish anything relating to *ex parte* proceedings under this section except with the authorization of the court or the written consent of the corporation being investigated. R.S.O. 1980, c. 54, s. 177, *part, amended*. ^{No publication without consent}

161.—(1) In connection with an investigation under this Part, the court may make any order it thinks fit including, without limiting the generality of the foregoing, ^{Matters that may be covered by court order}

- (a) an order to investigate;
- (b) an order appointing and fixing the remuneration of an inspector or replacing an inspector;

- (c) an order determining the notice to be given to any interested person, or dispensing with notice to any person;
- (d) an order authorizing an inspector to enter any premises in which the court is satisfied there might be relevant information, and to examine any thing and make copies of any document or record found on the premises;
- (e) an order requiring any person to produce documents or records to the inspector;
- (f) an order authorizing an inspector to conduct a hearing, administer oaths and examine any person upon oath, and prescribing rules for the conduct of the hearing;
- (g) an order requiring any person to attend a hearing conducted by an inspector and to give evidence upon oath;
- (h) an order giving directions to an inspector or any interested person on any matter arising in the investigation;
- (i) an order requiring an inspector to make an interim or final report to the court;
- (j) an order determining whether a report of an inspector should be made available for public inspection and ordering that copies be sent to any person the court designates;
- (k) an order requiring an inspector to discontinue an investigation;
- (l) an order requiring the corporation to pay the costs of the investigation.

Inspector's
report

(2) An inspector shall send to the Director and, where an offering corporation is involved, the Commission, a copy of every report made by the inspector under this Part which, subject to clause (1) (j), shall be placed on the corporation file for public inspection. R.S.O. 1980, c. 54, s. 177, *part, amended*.

Powers of
inspector

162.—(1) An inspector under this Part has the powers set out in the order appointing him.

(2) In addition to the powers set out in the order appointing ^{Idem} him, an inspector appointed to investigate a corporation may furnish to, or exchange information and otherwise co-operate with, any public official in Canada or elsewhere who is authorized to exercise investigatory powers and who is investigating, in respect of the corporation, any allegation of improper conduct that is the same as, or similar to, the conduct described in subsection 160 (2).

(3) An inspector shall produce upon request to an interested ^{Production of order} person a copy of any order made under subsection 161 (1). R.S.O. 1980, c. 54, s. 177 (1), *amended*.

163.—(1) Any interested person may apply to the court for ^{Hearing in camera} an order that a hearing conducted under this Part be heard *in camera* and for directions on any matter arising in the investigation.

(2) A person whose conduct is being investigated or who is ^{Right to counsel} being examined at a hearing conducted by an inspector under this Part has a right to be represented by counsel. *New*.

164. Any oral or written statement or report made by an ^{Privileged statements} inspector or any other person in an investigation under this Part has absolute privilege. *New*.

165. Nothing in this Part shall be construed to affect the ^{Solicitor-client privilege} privilege that exists in respect of communications between a solicitor and his client. *New*.

166. The Director may make inquiries of any person relating ^{Inquiries by Director} to compliance with this Act. *New*.

PART XIV

FUNDAMENTAL CHANGES

167.—(1) Subject to sections 169 and 170, a corporation may ^{Amendments} from time to time amend its articles to add, change or remove any provision that is permitted by this Act to be, or that is, set out in its articles, including without limiting the generality of the foregoing, to,

(a) change its name;

- (b) change the municipality or geographic township in which its registered office is located;
- (c) add, change or remove any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (d) add, change or remove any maximum number of shares that the corporation is authorized to issue or any maximum consideration for which any shares of the corporation are authorized to be issued;
- (e) create new classes of shares;
- (f) increase or reduce its stated capital which, for the purposes of the amendment, is deemed to be set out in the articles;
- (g) change the designation of all or any of its shares, and add, change or remove any rights, privileges, restrictions and conditions, including rights to accrued dividends, in respect of all or any of its shares, whether issued or unissued;
- (h) change the shares of any class or series, whether issued or unissued, into a different number of shares of the same class or series or into the same or a different number of shares of other classes or series;
- (i) divide a class of shares, whether issued or unissued, into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (j) authorize the directors to divide any class of unissued shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions thereof;
- (k) authorize the directors to change the rights, privileges, restrictions and conditions attached to unissued shares of any series;
- (l) revoke, diminish or enlarge any authority conferred under clauses (j) and (k);

- (m) subject to sections 120 and 125, increase or decrease the number, or minimum or maximum number, of directors; and
- (n) add, change or remove restrictions on the issue, transfer or ownership of shares of any class or series.

(2) The directors of a corporation may, if so authorized by a special resolution effecting an amendment under this section, revoke the resolution without further approval of the shareholders at any time prior to the endorsement by the Director of a certificate of amendment of articles in respect of such amendment. Revocation of resolution

(3) Notwithstanding subsection (1), where a corporation has a number name, the directors may amend its articles to change that name to a name that is not a number name. Change of number name

(4) An amendment under subsection (1) shall be authorized by a special resolution and an amendment under subsection (3) may be authorized by a resolution of the directors. Authorization

(5) This section does not apply to a corporation incorporated by special Act, except that a corporation incorporated by special Act, including a corporation to which *The Railways Act*, being chapter 331 of the Revised Statutes of Ontario, 1950, applies, may under this section amend its articles to change its name. R.S.O. 1980, c. 54, s. 180, *part, amended*. Special Act corporations excepted

168.—(1) The directors or any shareholder who is entitled to vote at an annual meeting of shareholders may, in accordance with section 99, make a proposal to amend the articles. Proposal to amend articles

(2) Notice of a meeting of shareholders at which a proposal to amend the articles is to be considered shall set out the proposed amendment and, where applicable, shall state that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an amendment. *New.* Idem

169.—(1) The holders of shares of a class or, subject to subsection (2), of a series are, unless the articles otherwise provide in the case of an amendment referred to in clause (a), (b) or (e), entitled to vote separately as a class or series upon a proposal to amend the articles to, Authorization for variation of rights of special shareholders

- (a) increase or decrease any maximum number of authorized shares of such class or series, or increase any maximum number of authorized shares of a class or series having rights or privileges equal or superior to the shares of such class or series;
- (b) effect an exchange, reclassification or cancellation of the shares of such class or series;

- (c) add to, remove or change the rights, privileges, restrictions or conditions attached to the shares of such class or series and, without limiting the generality of the foregoing,
 - (i) remove or change prejudicially rights to accrued dividends or rights to cumulative dividends,
 - (ii) add, remove or change prejudicially redemption rights or sinking fund provisions,
 - (iii) reduce or remove a dividend preference or a liquidation preference, or
 - (iv) add, remove or change prejudicially conversion privileges, options, voting, transfer or pre-emptive rights, or rights to acquire securities of a corporation;
- (d) add to the rights or privileges of any class or series of shares having rights or privileges equal or superior to the shares of such class or series;
- (e) create a new class or series of shares equal or superior to the shares of such class or series, except in the case of a series under section 25;
- (f) make any class or series of shares having rights or privileges inferior to the shares of such class or series equal or superior to the shares of such class or series;
- (g) effect an exchange or create a right of exchange of the shares of another class or series into the shares of such class or series; or
- (h) add, remove or change restrictions on the issue, transfer or ownership of the shares of such class or series.

Idem (2) The holders of a series of shares of a class are entitled to vote separately as a series under subsection (1) only if such series is affected by an amendment in a manner different from other shares of the same class.

Idem (3) Subsection (1) applies whether or not shares of a class or series otherwise carry the right to vote.

Idem (4) A proposed amendment to the articles referred to in subsection (1) is adopted when the shareholders have approved the amendment by a special resolution of the holders of the shares of each class or series entitled to vote thereon. R.S.O. 1980, c. 54, s. 180, *part, amended*.

(5) Subsection (1) does not apply in respect of a proposal to amend the articles to add a right or privilege for a holder to convert shares of a class or series into shares of another class or series that is subject to restrictions described in clause 42 (2) (d) but is otherwise equal to the class or series first mentioned. Exception

(6) For the purpose of clause (1) (e), a new class of shares, the issue, transfer or ownership of which is to be restricted by an amendment to the articles for the purpose of clause 42 (2) (d) that is otherwise equal to an existing class of shares shall be deemed not to be equal or superior to the existing class of shares. *New*. Deeming provision

170.—(1) Articles of amendment in prescribed form shall be sent to the Director. Articles of amendment sent to Director

(2) If an amendment effects or requires a reduction of stated capital, subsections 34 (4) and (5) apply. Application of s. 34 (4, 5)

(3) No corporation shall change its name if, Change of name

(a) the corporation is unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets is less than the aggregate of its liabilities. R.S.O. 1980, c. 54, s. 181, *amended*.

171. Upon receipt of articles of amendment, the Director shall endorse thereon in accordance with section 272 a certificate of amendment. R.S.O. 1980, c. 54, s. 182, *amended*. Certificate of amendment

172.—(1) The directors may at any time restate the articles of incorporation as amended. Restated articles of incorporation

(2) Restated articles of incorporation in prescribed form shall be sent to the Director. Idem

(3) Upon receipt of restated articles of incorporation, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the restated certificate of incorporation. Restated certificate of incorporation

(4) Restated articles of incorporation supersede the original articles of incorporation and all amendments thereto. R.S.O. 1980, c. 54, s. 183, *amended*. Idem

Amalgamation **173.** Two or more corporations, including holding or subsidiary corporations, may amalgamate and continue as one corporation. R.S.O. 1980, c. 54, s. 187 (1).

Amalgamation agreement **174.**—(1) Where corporations propose to amalgamate, each such corporation shall enter into an agreement setting out the terms and means of effecting the amalgamation and, in particular, setting out,

(a) the provisions that are required to be included in articles of incorporation under section 5;

(b) subject to subsection (2), the basis upon which and manner in which the holders of the issued shares of each amalgamating corporation are to receive,

(i) securities of the amalgamated corporation,

(ii) money, or

(iii) securities of any body corporate other than the amalgamated corporation,

in the amalgamation;

(c) the manner of payment of money instead of the issue of fractional shares of the amalgamated corporation or of any other body corporate the securities of which are to be received in the amalgamation;

(d) whether the by-laws of the amalgamated corporation are to be those of one of the amalgamating corporations and the address where a copy of the proposed by-laws may be examined; and

(e) such other details as may be necessary to perfect the amalgamation and to provide for the subsequent management and operation of the amalgamated corporation. R.S.O. 1980, c. 54, s. 187 (2), *amended*.

Shares of amalgamating corporation held by another (2) Where shares of one of the amalgamating corporations are held by or on behalf of another of the amalgamating corporations, the amalgamation agreement shall provide for the cancellation of such shares upon the amalgamation becoming effective without any repayment of capital in respect thereof, and no provision shall be made in the agreement for the conversion of such shares into

shares of the amalgamated corporation. R.S.O. 1980, c. 54, s. 187 (3).

175.—(1) The directors of each amalgamating corporation shall submit the amalgamation agreement for approval at a meeting of the shareholders of the amalgamating corporation of which they are directors and, subject to subsection (3), of the holders of shares of each class or series entitled to vote thereon. Submission of amalgamation agreement

(2) The notice of the meeting of shareholders of each amalgamating corporation shall include or be accompanied by, Notice of meeting

- (a) a copy or summary of the amalgamation agreement; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an amalgamation.

(3) The holders of a class or series of shares of an amalgamating corporation, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect of an amalgamation if the amalgamation agreement contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 169. Voting by class, etc.

(4) An amalgamation agreement is adopted when the shareholders of each amalgamating corporation have approved of the amalgamation by a special resolution of the holders of the shares of each class or series entitled to vote thereon. Adoption of amalgamation agreement

(5) An amalgamation agreement may provide that at any time before the endorsement of a certificate of amalgamation the agreement may be terminated by the directors of an amalgamating corporation, notwithstanding approval of the agreement by the shareholders of all or any of the amalgamating corporations. Termination of agreement
New.

176.—(1) A holding corporation and one or more of its wholly-owned subsidiary corporations may amalgamate and continue as one corporation without complying with sections 174 and 175 if, Amalgamation of holding corporation and its subsidiary

- (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and
- (b) the resolutions provide that,
 - (i) the shares of each amalgamating subsidiary corporation shall be cancelled without any repayment of capital in respect thereof,

- (ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating holding corporation, and
- (iii) no securities shall be issued and no assets shall be distributed by the amalgamated corporation in connection with the amalgamation.

Amalgamation
of
subsidiaries

(2) Two or more wholly-owned subsidiary corporations of the same holding body corporate may amalgamate and continue as one corporation without complying with sections 174 and 175 if,

- (a) the amalgamation is approved by a resolution of the directors of each amalgamating corporation; and
- (b) the resolutions provide that,
 - (i) the shares of all but one of the amalgamating subsidiary corporations shall be cancelled without any repayment of capital in respect thereof,
 - (ii) except as may be prescribed, the articles of amalgamation shall be the same as the articles of the amalgamating subsidiary corporation whose shares are not cancelled, and
 - (iii) the stated capital of the amalgamating subsidiary corporations whose shares are cancelled shall be added to the stated capital of the amalgamating subsidiary corporation whose shares are not cancelled. *New.*

Articles of
amalgamation
to be sent to
Director

177.—(1) Subject to subsection 175 (5), after an amalgamation has been adopted under section 175 or approved under section 176, articles of amalgamation in prescribed form shall be sent to the Director.

Director's
statement

(2) The articles of amalgamation shall have attached thereto a statement of a director or an officer of each amalgamating corporation stating that,

- (a) there are reasonable grounds for believing that,
 - (i) each amalgamating corporation is and the amalgamated corporation will be able to pay its liabilities as they become due, and

- (ii) the realizable value of the amalgamated corporation's assets will not be less than the aggregate of its liabilities and stated capital of all classes;
 - (b) there are reasonable grounds for believing that,
 - (i) no creditor will be prejudiced by the amalgamation, or
 - (ii) adequate notice has been given to all known creditors of the amalgamating corporations;
 - (c) the grounds upon which the objections of all creditors who have notified the corporation that they object to the amalgamation, setting forth with reasonable particularity the grounds for such objections, are either frivolous or vexatious; and
 - (d) the corporation has given notice to each person who has, in the manner referred to in clause (c), notified the corporation of his objection to the amalgamation, that,
 - (i) the grounds upon which his objection is based are considered to be frivolous or vexatious, and
 - (ii) a creditor of a corporation who objects to an amalgamation has the status of a complainant under section 247.
- (3) For the purposes of subsection (2), adequate notice is given ^{Notice} if,
- (a) a notice in writing is sent to each known creditor having a claim against the corporation that exceeds \$2,500, at the last address of the creditor known to the corporation;
 - (b) a notice is published once in a newspaper published or distributed in the place where the corporation has its registered office; and
 - (c) each notice states that the corporation intends to amalgamate with one or more specified corporations in accordance with this Act unless a creditor of the corporation objects to the amalgamation within thirty days from the date of the notice.
- (4) Upon receipt of articles of amalgamation, the Director shall ^{Certificate of amalgamation} endorse thereon in accordance with section 272 a certificate which

shall constitute the certificate of amalgamation. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Effect of
certificate

178. Upon the articles of amalgamation becoming effective,

- (a) the amalgamating corporations are amalgamated and continue as one corporation under the terms and conditions prescribed in the amalgamation agreement;
- (b) the amalgamated corporation possesses all the property, rights, privileges and franchises and is subject to all liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of each of the amalgamating corporations;
- (c) a conviction against, or ruling, order or judgment in favour or against an amalgamating corporation may be enforced by or against the amalgamated corporation;
- (d) the articles of amalgamation are deemed to be the articles of incorporation of the amalgamated corporation and, except for the purposes of subsection 117 (1), the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated corporation;
- (e) the amalgamated corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against an amalgamating corporation before the amalgamation has become effective. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Articles of
continuance

179.—(1) A body corporate incorporated under the laws of any jurisdiction other than Ontario may, if it appears to the Director to be thereunto authorized by the laws of the jurisdiction in which it was incorporated, apply to the Director for a certificate of continuance. R.S.O. 1980, c. 54, s. 188, *part, amended*.

Idem

(2) Articles of continuance in prescribed form shall be sent to the Director together with any other prescribed documents.

Amendments
to original
articles

(3) The articles of continuance shall make any amendments to the original or restated articles of incorporation, articles of amalgamation, letters patent, supplementary letters patent, a special Act and any other instrument by which the body corporate was incorporated and any amendments thereto necessary to make the articles of continuance conform to the laws of Ontario, and may

make such other amendments as would be permitted under this Act if the body corporate were incorporated under the laws of Ontario, provided that at least the same shareholder approval has been obtained for such other amendments as would have been required under this Part if the body corporate were incorporated under the laws of Ontario. R.S.O. 1980, c. 54, s. 189 (1), *part, amended*.

(4) Upon receipt of articles of continuance and any other prescribed documents, the Director may, on such terms and subject to such limitations and conditions as he considers proper, endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of continuance.

Endorsement
of certificate
of continuance

(5) Upon the articles of continuance becoming effective,

Effect of
certificate

- (a) the body corporate becomes a corporation to which this Act applies as if it had been incorporated under this Act;
- (b) the articles of continuance are deemed to be the articles of incorporation of the continued corporation; and
- (c) except for the purposes of subsection 117 (1), the certificate of continuance is deemed to be the certificate of incorporation of the continued corporation.

(6) The Director shall send a copy of the certificate of continuance to the appropriate official or public body in the jurisdiction in which continuance under the Act was authorized. R.S.O. 1980, c. 54, s. 189, *part, amended*.

Copy of certificate of continuance

(7) When a body corporate is continued as a corporation under this Act,

Rights,
liabilities, etc.,
preserved

- (a) the corporation possesses all the property, rights, privileges and franchises and is subject to all the liabilities, including civil, criminal and quasi-criminal, and all contracts, disabilities and debts of the body corporate;
- (b) a conviction against, or ruling, order or judgment in favour of or against, the body corporate may be enforced by or against the corporation; and
- (c) the corporation shall be deemed to be the party plaintiff or the party defendant, as the case may be, in any civil action commenced by or against the body corporate. R.S.O. 1980, c. 54, s. 191, *amended*.

Shares issued
before body
corporate con-
tinued under
this Act

(8) Subject to subsection 56 (3), a share of a body corporate issued before the body corporate was continued under this Act shall be deemed to have been issued in compliance with this Act and with the provisions of the articles of continuance, irrespective that the share is not fully paid and of any designation, rights, privileges, restrictions or conditions set out on or referred to in the certificate representing the share, and continuance under this section does not deprive a holder of any right or privilege that he claims under, or relieve him of any liability in respect of, an issued share. *New.*

Transfer of
Ontario cor-
porations

180.—(1) Subject to subsection (9), a corporation may, if it is authorized by the shareholders and the Director in accordance with this section, apply to the appropriate official or public body of another jurisdiction requesting that the corporation be continued as if it had been incorporated under the laws of that other jurisdiction.

Notice to
shareholders

(2) The notice of the meeting of shareholders shall include or be accompanied by a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate an authorization under clause (3) (a).

Application for
continuance

(3) An application for continuance becomes authorized,

(a) by the shareholders when the shareholders voting thereon have approved of the continuance by a special resolution; and

(b) by the Director when, following receipt from the corporation of an application in prescribed form, he endorses an authorization on the application.

Authorization
by Director

(4) The Director may endorse the authorization if he is satisfied that the application is not prohibited by subsection (9).

Abandoning
application

(5) The directors of a corporation may, if authorized by the shareholders, abandon an application without further approval of the shareholders.

Time limit
to Director's
authorization

(6) The authorization of the Director for an application for continuance expires ninety days after the date of endorsement of the authorization unless, within the ninety day period, the corporation is continued under the laws of the other jurisdiction.

Filing
instrument
of
continuance

(7) The corporation shall file with the Director a copy of the instrument of continuance issued to it by the other jurisdiction within sixty days after the date of issuance.

(8) This Act ceases to apply to the corporation on the date upon which the corporation is continued under the laws of the other jurisdiction. Effective date

(9) A corporation shall not apply under subsection (1) to be continued as a body corporate under the laws of another jurisdiction unless those laws provide in effect that, Continuance in outside jurisdiction

- (a) the property of the corporation continues to be the property of the body corporate;
- (b) the body corporate continues to be liable for the obligations of the corporation;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the corporation may be continued to be prosecuted by or against the body corporate; and
- (e) a conviction against the corporation may be enforced against the body corporate or a ruling, order or judgment in favour of or against the corporation may be enforced by or against the body corporate. R.S.O. 1980, c. 54, s. 190, *amended*.

181.—(1) In this section, “arrangement”, with respect to a corporation, includes, Arrangement

- (a) a reorganization of the shares of any class or series of the corporation or of the stated capital of any such class or series;
- (b) the addition to or removal from the articles of the corporation of any provision that is permitted by this Act to be, or that is, set out in the articles or the change of any such provision;
- (c) an amalgamation of the corporation with another corporation;
- (d) an amalgamation of a body corporate with a corporation that results in an amalgamated corporation subject to this Act;
- (e) a transfer of all or substantially all the property of the corporation to another body corporate in exchange for securities, money or other property of the body corporate;

R.S.O. 1980,
c. 466

(f) an exchange of securities of the corporation held by security holders for other securities, money or other property of the corporation or securities, money or other property of another body corporate that is not a take-over bid as defined in Part XIX of the *Securities Act*;

(g) a liquidation or dissolution of the corporation;

(h) any other reorganization or scheme involving the business or affairs of the corporation or of any or all of the holders of its securities or of any options or rights to acquire any of its securities that is, at law, an arrangement; and

(i) any combination of the foregoing. R.S.O. 1980, c. 54, s. 184 (1), *amended*.

Scheme of
arrangement

(2) A corporation proposing an arrangement shall prepare, for the approval of the shareholders, a statement thereof setting out in detail what is proposed to be done and the manner in which it is proposed to be done.

Adoption of
arrangement

(3) Subject to any order of the court made under subsection (5), where an arrangement has been approved by shareholders of a corporation and by holders of shares of each class or series entitled to vote separately thereon, in each case by special resolution, the arrangement shall have been adopted by the shareholders of the corporation and the corporation may apply to the court for an order approving the arrangement.

Separate
votes

(4) The holders of shares of a class or series of shares of a corporation are not entitled to vote separately as a class or series in respect of an arrangement unless the statement of the arrangement referred to in subsection (2) contains a provision that, if contained in a proposed amendment to the articles, would entitle such holders to vote separately as a class or series under section 169 and, if the statement of the arrangement contains such a provision, such holders are entitled to vote separately on the arrangement whether or not such shares otherwise carry the right to vote.

Application
to court

(5) The corporation may, at any time, apply to the court for advice and directions in connection with an arrangement or proposed arrangement and the court may make such order as it considers appropriate, including, without limiting the generality of the foregoing,

(a) an order determining the notice to be given to any interested person or dispensing with notice to any person;

- (b) an order requiring a corporation to call, hold and conduct an additional meeting of, or to hold a separate vote of, all or any particular group of holders of any securities or warrants of the corporation in such manner as the court directs;
- (c) an order permitting a shareholder to dissent under section 184 if the arrangement is adopted;
- (d) an order appointing counsel, at the expense of the corporation, to represent the interests of shareholders;
- (e) an order that the arrangement or proposed arrangement shall be deemed not to have been adopted by the shareholders of the corporation unless it has been approved by a specified majority that is greater than two-thirds of the votes cast at a meeting of the holders, or any particular group of holders, of securities or warrants of the corporation; and
- (f) an order approving the arrangement as proposed by the corporation or as amended in any manner the court may direct, subject to compliance with such terms and conditions, if any, as the court thinks fit,

and to the extent that any such order is inconsistent with a provision of this section such order shall prevail.

(6) Where a reorganization or scheme is proposed as an arrangement and involves an amendment of the articles of a corporation or the taking of any other steps that could be made or taken under any other provision of this Act, the procedure provided for in this section, and not the procedure provided for in such other provision, applies to such reorganization or scheme. Procedure

(7) Where an amendment of articles is proposed to be made under section 167 that could be made under this section, the procedure provided for in section 167 and not the procedure provided for in this section applies in respect of the amendment. Idem

(8) An applicant under this section shall give the Director notice of the application, and the Director is entitled to appear and be heard in person or by counsel. R.S.O. 1980, c. 54, s. 185 (2-8), *amended*. Director
entitled
to be heard

182.—(1) After an order referred to in clause 181 (5) (f) has been made, articles of arrangement in prescribed form shall be sent to the Director. Articles of
arrangement
sent to
Director

Certificate of
arrangement

(2) Upon receipt of articles of arrangement the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of arrangement. *New.*

Borrowing
powers

183.—(1) Unless the articles or by-laws of or a unanimous shareholder agreement otherwise provide, the articles of a corporation shall be deemed to state that the directors of a corporation may, without authorization of the shareholders,

- (a) borrow money upon the credit of the corporation;
- (b) issue, reissue, sell or pledge debt obligations of the corporation;
- (c) subject to section 20, give a guarantee on behalf of the corporation to secure performance of an obligation of any person; and
- (d) mortgage, hypothecate, pledge or otherwise create a security interest in all or any property of the corporation, owned or subsequently acquired, to secure any obligation of the corporation.

Delegation of
powers

(2) Unless the articles or by-laws of or a unanimous shareholder agreement relating to a corporation otherwise provide, the directors may by resolution delegate any or all of the powers referred to in subsection (1) to a director, a committee of directors or an officer. R.S.O. 1980, c. 54, s. 51, *amended*.

Sale, etc.,
requires
approval of
shareholders

(3) A sale, lease or exchange of all or substantially all the property of a corporation other than in the ordinary course of business of the corporation requires the approval of the shareholders in accordance with subsections (4) to (8).

Notice

(4) The notice of a meeting of shareholders to approve a transaction referred to in subsection (3) shall include or be accompanied by,

- (a) a copy or summary of the agreement of sale, lease or exchange; and
- (b) a statement that a dissenting shareholder is entitled to be paid the fair value of his shares in accordance with section 184, but failure to make that statement does not invalidate a sale, lease or exchange referred to in subsection (3).

(5) At the meeting referred to in subsection (4), the shareholders may authorize the sale, lease or exchange and may fix or authorize the directors to fix any of the terms and conditions thereof. Shareholders may authorize sale, etc.

(6) If a sale, lease or exchange by a corporation referred to in subsection (3) would affect a particular class or series of shares of the corporation in a manner different from the shares of another class or series of the corporation entitled to vote on the sale, lease or exchange at the meeting referred to in subsection (4), the holders of such first mentioned class or series of shares, whether or not they are otherwise entitled to vote, are entitled to vote separately as a class or series in respect to such sale, lease or exchange. Right to vote separately

(7) The approval of a sale, lease or exchange referred to in subsection (3) is effective when the shareholders have approved the sale, lease or exchange by a special resolution of the holders of the shares of each class or series entitled to vote thereon. When approval effective

(8) The directors of a corporation may, if authorized by the shareholders approving a proposed sale, lease or exchange, and subject to the rights of third parties, abandon the sale, lease or exchange without further approval of the shareholders. *New.* Approval by directors

184.—(1) Subject to subsection (3) and to sections 185 and 247, if a corporation resolves to, Rights of dissenting shareholders

- (a) amend its articles under section 167 to add, remove or change restrictions on the issue, transfer or ownership of shares of a class or series of the shares of the corporation;
- (b) amend its articles under section 167 to add, remove or change any restriction upon the business or businesses that the corporation may carry on or upon the powers that the corporation may exercise;
- (c) amalgamate with another corporation under sections 174 and 175;
- (d) be continued under the laws of another jurisdiction under section 180; or
- (e) sell, lease or exchange all or substantially all its property under subsection 183 (3),

a holder of shares of any class or series entitled to vote on the resolution may dissent.

(2) If a corporation resolves to amend its articles in a manner referred to in subsection 169 (1), a holder of shares of any class or series entitled to vote on the amendment under section 167 or 169 may dissent, except in respect of an amendment referred to in, Idem

(a) clause 169 (1) (a), (b) or (e) where the articles provide that the holders of shares of such class or series are not entitled to dissent; or

(b) subsection 169 (5) or (6).

Exception

(3) A shareholder of a corporation incorporated before this Act comes into force is not entitled to dissent under this section in respect of an amendment of the articles of the corporation to the extent that the amendment,

(a) amends the express terms of any provision of the articles of the corporation to conform to the terms of the provision as deemed to be amended by section 275; or

(b) deletes from the articles of the corporation all of the objects of the corporation set out in its articles, provided that the deletion is made within three years after this Act comes into force.

Shareholder's
right to be
paid fair
value

(4) In addition to any other right he may have, but subject to subsection (28), a shareholder who complies with this section is entitled, when the action approved by the resolution from which he dissents becomes effective, to be paid by the corporation the fair value of the shares held by him in respect of which he dissents, determined as of the close of business on the day before the resolution was adopted.

No partial
dissent

(5) A dissenting shareholder may only claim under this section with respect to all the shares of a class held by him on behalf of any one beneficial owner and registered in the name of the dissenting shareholder.

Objection

(6) A dissenting shareholder shall send to the corporation, at or before any meeting of shareholders at which a resolution referred to in subsection (1) or (2) is to be voted on, a written objection to the resolution, unless the corporation did not give notice to the shareholder of the purpose of the meeting or of his right to dissent.

Notice of
adoption of
resolution

(7) The corporation shall, within ten days after the shareholders adopt the resolution, send to each shareholder who has filed the objection referred to in subsection (6) notice that the resolution has been adopted, but such notice is not required to be sent to any shareholder who voted for the resolution or who has withdrawn his objection.

Demand for
payment of fair
value

(8) A dissenting shareholder entitled to receive notice under subsection (7) shall, within twenty days after he receives such

notice, or, if he does not receive such notice, within twenty days after he learns that the resolution has been adopted, send to the corporation a written notice containing,

- (a) his name and address;
- (b) the number and class of shares in respect of which he dissents; and
- (c) a demand for payment of the fair value of such shares.

(9) Not later than the thirtieth day after the sending of a notice under subsection (8), a dissenting shareholder shall send the certificates representing the shares in respect of which he dissents to the corporation or its transfer agent. Certificates to be sent in

(10) A dissenting shareholder who fails to comply with subsections (6), (8) and (9) has no right to make a claim under this section. Idem

(11) A corporation or its transfer agent shall endorse on any share certificate received under subsection (9) a notice that the holder is a dissenting shareholder under this section and shall return forthwith the share certificates to the dissenting shareholder. Endorsement on certificate

(12) On sending a notice under subsection (8), a dissenting shareholder ceases to have any rights as a shareholder other than the right to be paid the fair value of his shares as determined under this section except where, Rights of dissenting shareholder

- (a) the dissenting shareholder withdraws his notice before the corporation makes an offer under subsection (13);
- (b) the corporation fails to make an offer in accordance with subsection (13) and the dissenting shareholder withdraws his notice; or
- (c) the directors revoke a resolution to amend the articles under subsection 167 (2), terminate an amalgamation agreement under subsection 175 (5) or an application for continuance under subsection 180 (5), or abandon a sale, lease or exchange under subsection 183 (8),

in which case his rights as the holder of the shares in respect of which he has dissented are reinstated as of the date he sent the notice referred to in subsection (8), and he is entitled, upon presentation and surrender to the corporation or its transfer agent of any certificate representing the shares that has been endorsed in

accordance with subsection (11), to be issued a new certificate representing the same number of shares as the certificate so presented, without payment of any fee.

- | | |
|--|--|
| Offer to pay | <p>(13) A corporation shall, not later than seven days after the later of the day on which the action approved by the resolution is effective or the day the corporation received the notice referred to in subsection (8), send to each dissenting shareholder who has sent such notice,</p> <ul style="list-style-type: none"> (a) a written offer to pay for his shares in an amount considered by the directors of the corporation to be the fair value thereof, accompanied by a statement showing how the fair value was determined; or (b) if subsection (28) applies, a notification that it is unable lawfully to pay dissenting shareholders for their shares. |
| Idem | <p>(14) Every offer made under subsection (13) for shares of the same class or series shall be on the same terms.</p> |
| Idem | <p>(15) Subject to subsection (28), a corporation shall pay for the shares of a dissenting shareholder within ten days after an offer made under subsection (13) has been accepted, but any such offer lapses if the corporation does not receive an acceptance thereof within thirty days after the offer has been made.</p> |
| Application to court to fix fair value | <p>(16) Where a corporation fails to make an offer under subsection (13) or if a dissenting shareholder fails to accept an offer, the corporation may, within fifty days after the action approved by the resolution is effective or within such further period as the court may allow, apply to the court to fix a fair value for the shares of any dissenting shareholder.</p> |
| Idem | <p>(17) If a corporation fails to apply to the court under subsection (16), a dissenting shareholder may apply to the court for the same purpose within a further period of twenty days or within such further period as the court may allow.</p> |
| Idem | <p>(18) A dissenting shareholder is not required to give security for costs in an application made under subsection (16) or (17).</p> |
| Costs | <p>(19) If a corporation fails to comply with subsection (13), then the costs of a shareholder application under subsection (17) are to be borne by the corporation unless the court otherwise orders.</p> |
| Notice to shareholders | <p>(20) Before making application to the court under subsection (16) or not later than seven days after receiving notice of an application to the court under subsection (17), as the case may</p> |

be, a corporation shall give notice to each dissenting shareholder who, at the date upon which the notice is given,

- (a) has sent to the corporation the notice referred to in subsection (8); and
- (b) has not accepted an offer made by the corporation under subsection (13), if such an offer was made,

of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel, and a similar notice shall be given to each dissenting shareholder who, after the date of such first mentioned notice and before termination of the proceedings commenced by the application, satisfies the conditions set out in clauses (a) and (b) within three days after he satisfies such conditions.

(21) All dissenting shareholders who satisfy the conditions set out in clauses (20) (a) and (b) shall be deemed to be joined as parties to an application under subsection (16) or (17) on the later of the date upon which the application is brought and the date upon which they satisfy the conditions, and shall be bound by the decision rendered by the court in the proceedings commenced by the application. Parties joined

(22) Upon an application to the court under subsection (16) or (17), the court may determine whether any other person is a dissenting shareholder who should be joined as a party, and the court shall fix a fair value for the shares of all dissenting shareholders. Idem

(23) The court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the shares of the dissenting shareholders. Appraisers

(24) The final order of the court in the proceedings commenced by an application under subsection (16) or (17) shall be rendered against the corporation and in favour of each dissenting shareholder who, whether before or after the date of the order, complies with the conditions set out in clauses (20) (a) and (b). Final order

(25) The court may in its discretion allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective until the date of payment. Interest

(26) Where subsection (28) applies, the corporation shall, within ten days after the pronouncement of an order under subsection (24), notify each dissenting shareholder that it is unable lawfully to pay dissenting shareholders for their shares. Where corporation unable to pay

Idem

(27) Where subsection (28) applies, a dissenting shareholder, by written notice sent to the corporation within thirty days after receiving a notice under subsection (26), may,

- (a) withdraw his notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the shareholder is reinstated to his full rights as a shareholder; or
- (b) retain a status as a claimant against the corporation, to be paid as soon as the corporation is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the corporation but in priority to its shareholders.

Idem

(28) A corporation shall not make a payment to a dissenting shareholder under this section if there are reasonable grounds for believing that,

- (a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or
- (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.

Court order

(29) Upon application by a corporation that proposes to take any of the actions referred to in subsection (1) or (2), the court may, if satisfied that the proposed action is not in all the circumstances one that should give rise to the rights arising under subsection (4), by order declare that those rights will not arise upon the taking of the proposed action, and the order may be subject to compliance with such terms and conditions as the court thinks fit and notice of any such application and a copy of any order made by the court upon such application shall be served upon the Director and, if the corporation is an offering corporation, upon the Commission.

Director may appear

(30) The Director and, in the case of an offering corporation, the Commission may appoint counsel to assist the court upon the hearing of an application under subsection (29). R.S.O. 1980, c. 54, s. 98, *amended*.

Reorganization
R.S.C. 1970,
c. B-4

185.—(1) In this section, “reorganization” means a court order made under section 247 or an order made under the *Bankruptcy Act* (Canada) approving a proposal.

Articles amended

(2) If a corporation is subject to a reorganization, its articles may be amended by the order to effect any change that might lawfully be made by an amendment under section 167.

Auxiliary
powers of
court

(3) Where a reorganization is made, the court making the order may also,

(a) authorize the issue of debt obligations of the corporation, whether or not convertible into shares of any class or having attached any rights or options to acquire shares of any class, and fix the terms thereof; and

(b) appoint directors in place of or in addition to all or any of the directors then in office.

(4) After a reorganization has been made, articles of reorganization in prescribed form shall be sent to the Director. Articles of reorganization

(5) Upon receipt of articles of reorganization, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of amendment and the articles are amended accordingly. Certificate

(6) A shareholder is not entitled to dissent under section 184 if an amendment to the articles is effected under this section. No dissent
New.

PART XV

COMPULSORY ACQUISITIONS

186.—(1) This Part applies only to an offering corporation. Application

(2) In this Part, Interpretation

(a) “dissenting offeree” means a person to whom a take-over bid or issuer bid is made who does not accept the take-over bid or issuer bid and includes a person who subsequently acquires a security that is the subject of the bid;

(b) “equity security” means any security other than a debt obligation of a corporation;

(c) “issuer bid” means an offer made by a corporation to security holders to purchase, redeem or otherwise acquire any or all of a class of the securities of the corporation, other than where,

(i) the securities to be purchased, redeemed or otherwise acquired are debt securities that are not convertible into equity securities,

(ii) the securities are to be purchased, redeemed or otherwise acquired in accordance with the terms and conditions thereof or otherwise agreed to at

the time they were issued or subsequently varied by amendment of the documents setting out those terms and conditions, or are acquired to meet sinking fund requirements or from an employee or a former employee of the issuer or of an affiliate, or

- (iii) the purchases, redemptions or other acquisitions to be made are required by the instrument creating or governing the class of securities or by this Act;
- (d) “offeree” means a person to whom a take-over bid or an issuer bid is made;
- (e) “offeree corporation” means a corporation whose securities are the subject of a take-over bid;
- (f) “offeror” means a person, other than an agent, who makes a take-over bid or an issuer bid;
- (g) “take-over bid” means an offer made to security holders of an offeree corporation to purchase directly or indirectly voting securities of the offeree corporation, where the voting securities that are the subject of the offer to purchase, the acceptance of the offer to sell or the combination thereof, as the case may be, together with the securities currently owned by the offeror, its affiliates and associates will carry, in the aggregate, 10 per cent or more of the voting rights attached to the voting securities of the offeree corporation that would be outstanding on exercise of all currently exercisable rights of purchase, conversion or exchange relating to voting securities of the offeree corporation;
- (h) “voting security” includes,
 - (i) a security currently convertible into a voting security or into another security that is convertible into a voting security,
 - (ii) a currently exercisable option or right to acquire a voting security or another security that is convertible into a voting security, or
 - (iii) a security carrying an option or right referred to in subclause (ii). *New.*

90 per cent of the securities of any class of securities to which the bid relates, other than securities held at the date of the bid by or on behalf of the offeror, or an affiliate or associate of the offeror, the offeror is entitled, upon complying with this section, to acquire the securities held by dissenting offerees.

(2) An offeror may acquire the securities of any class to which the bid relates that are held by a dissenting offeree by sending on or before the earlier of the sixtieth day following the termination of the bid and the one hundred and eightieth day following the date of the bid an offeror's notice to each dissenting offeree and to the Director stating in substance that,

Shares of
dissenting
offeree

- (a) offerees holding more than 90 per cent of the securities to which the bid relates other than securities held at the date of the bid by or on behalf of the offeror or an affiliate or associate of the offeror have accepted the bid;
- (b) the offeror is bound to take up and pay for or has taken up and paid for the securities of the offerees who accepted the bid;
- (c) a dissenting offeree is required to elect,
 - (i) to transfer his securities to the offeror on the terms on which the offeror acquired the securities of the offerees who accepted the bid, or
 - (ii) to demand payment of the fair value of his securities in accordance with subsections (13) to (21) by notifying the offeror within twenty days after receipt of the offeror's notice;
- (d) a dissenting offeree who does not notify the offeror in accordance with subclause (c) (ii) is deemed to have elected to transfer his securities to the offeror on the same terms that the offeror acquired the securities from the offerees who accepted the bid; and
- (e) a dissenting offeree must send the certificates representing his securities to which the bid relates to the offeree corporation or, in the case of an issuer bid, to the offeror within twenty days after he receives the offeror's notice.

(3) In the case of,

Notice

- (a) a take-over bid, concurrently with sending the offeror's notice under subsection (2), the offeror shall send or deliver to the offeree corporation a notice of adverse claim in accordance with section 88 with respect to each share held by a dissenting offeree; or
- (b) an issuer bid, the offeror shall be deemed to have notice of an adverse claim for the purpose of section 88 with respect to each share held by a dissenting offeree.

Sending in
share
certificates

(4) A dissenting offeree to whom an offeror's notice is sent under subsection (2) shall, within twenty days after he receives that notice,

- (a) send the certificates representing his securities to which the take-over bid relates to the offeree corporation; or
- (b) send the certificates representing his securities to which the issuer bid relates to the offeror.

Payment by
offeror

(5) Within twenty days after the offeror sends an offeror's notice under subsection (2), the offeror shall pay or transfer to the offeree corporation the amount of money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the take-over bid under subclause (2) (c) (i).

Trust funds

(6) An offeree corporation is deemed to hold in trust for dissenting offerees the money or other consideration it receives under subsection (5), and the offeree corporation shall deposit the money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation and shall place the other consideration in the custody of a bank or other such body corporate.

Idem

(7) The offeror making an issuer bid is deemed to hold in trust for dissenting offerees the money or other consideration that the offeror would have had to pay or transfer to all dissenting offerees if they had elected to accept the issuer bid under subclause (2) (c) (i) and, within twenty days after the issuer sends an offeror's notice under subsection (2), the issuer shall deposit any such money in a separate account in a bank or other body corporate any of whose deposits are insured by the Canada Deposit Insurance Corporation and shall place the other consideration in the custody of a bank or such other body corporate within twenty days after the offeror sends an offeror's notice under subsection (2).

Notice of
compliance

(8) Within ten days after the offeror complies with subsection (5) or subsection (7), as the case may be, the offeror shall give notice of the date of such compliance to all dissenting offerees.

Application
to court

(9) At any time prior to the thirtieth day following the day upon which the offeror's notice referred to in subsection (2) is sent to dissenting offerees, a dissenting offeree who has demanded payment of the fair value of his securities in accordance with subclause (2) (c) (ii) may apply to the court for an order requiring the person who has sent the offeror's notice to provide, in such form as the court considers appropriate, such additional

security for payment to dissenting offerees of the fair value of their securities as the court may determine to be necessary, pending the determination of such fair value.

(10) The securities of all dissenting offerees shall be deemed to have been acquired by the offeror, Where shares deemed acquired

- (a) where an application under subsection (9) has not been made within the time set out in subsection (9), upon the expiration of that time; or
- (b) where an application has been made under subsection (9), upon compliance with the order made in respect of the application.

(11) Within ten days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made a take-over bid, the offeree corporation shall, Duties of offeree corporation

- (a) issue to the offeror a security certificate in respect of the securities that were held by dissenting offerees;
- (b) send to each dissenting offeree who elects to accept the take-over bid terms under subclause (2) (c) (i) and who sends his security certificates as required under clause (4) (a), the money or other consideration to which he is entitled; and
- (c) send to each dissenting offeree who has not sent his security certificates as required under clause (4) (a), notice stating in substance that,
 - (i) the certificates representing his securities have been cancelled,
 - (ii) the offeree corporation or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his securities, and
 - (iii) the offeree corporation will, subject to subsections (13) to (21), send that money or other consideration to him forthwith after receiving his securities.

(12) Within ten days after the acquisition of the securities of dissenting offerees under subsection (10) by an offeror who has made an issuer bid, the offeror shall, Payment by offeror

- (a) send to each dissenting offeree who elects to accept the issuer bid terms under subclause (2) (c) (i) and who sends his security certificates as required under clause (4) (b), the money or other consideration to which he is entitled; and
- (b) send to each dissenting offeree who has not sent his security certificates as required under clause (4) (b) a notice stating in substance that,
 - (i) the certificates representing his securities have been cancelled,
 - (ii) the offeror or some designated person holds in trust for him the money or other consideration to which he is entitled as payment for or in exchange for his securities, and
 - (iii) the offeror will, subject to subsections (13) to (21), send that money or other consideration to him forthwith after receiving his securities.

Application to
fix fair value

(13) If a dissenting offeree has elected to demand payment of the fair value of his securities under subclause (2) (c) (ii), the offeror may, in the case of a take-over bid, within twenty days after it has complied with subsection (5) or, in the case of an issuer bid, within twenty days after it has complied with subsection (7), apply to the court to fix the fair value of the securities of that dissenting offeree.

Idem

(14) If an offeror fails to apply to the court under subsection (13), a dissenting offeree may apply to the court for the same purpose within a further period of twenty days.

Where no
application

(15) If no application is made to the court under subsection (13) or (14) within the periods set out in those subsections, a dissenting offeree is deemed to have elected to transfer his securities to the offeror on the same terms that the offeror acquired the securities from offerees who accepted the take-over or issuer bid and, provided that the dissenting offeree has complied with subsection (4), the issuer or the offeree corporation, as the case may be, shall pay or transfer to the dissenting offeree the money or other consideration to which he is entitled.

Security for
costs not
required

(16) A dissenting offeree is not required to give security for costs in an application made under subsection (13) or (14).

Parties

(17) Upon an application under subsection (13) or (14),

- (a) all dissenting offerees referred to in subclause (2) (c) (ii) whose securities have not been acquired by the offeror

shall be joined as parties and are bound by the decision of the court; and

- (b) the offeror shall notify each such dissenting offeree of the date, place and consequences of the application and of his right to appear and be heard in person or by counsel.

(18) Upon an application to the court under subsection (13) or (14), the court may determine whether any other person is a dissenting offeree who should be joined as a party, and the court shall then fix a fair value for the securities of all dissenting offerees. Idem

(19) The court may appoint one or more appraisers to assist the court in fixing a fair value for the securities of each dissenting offeree. Appointment of appraisers

(20) The final order of the court shall be made against the offeror in favour of each dissenting offeree. Final order

(21) In connection with proceedings under this section, the court may make any order it thinks fit and, without limiting the generality of the foregoing, it may, What court may order

- (a) fix the amount of money or other consideration that is required to be held in trust under subsection (6) or (7);

- (b) order that the money or other consideration be held in trust by a person other than,

- (i) the offeree corporation, or

- (ii) in the case of an issuer bid, the offeror corporation;

- (c) allow a reasonable rate of interest on the amount payable to each dissenting offeree from the date he sends his security certificates under subsection (4) until the date of payment; or

- (d) order that any money payable to a dissenting offeree who cannot be found be paid to the Public Trustee. *New.*

188.—(1) Where 90 per cent or more of a class of securities of a corporation, other than debt obligations, are acquired by or on behalf of a person, his affiliates and his associates, then the holder of any securities of that class not counted for the purposes of calculating such percentage shall be entitled in accordance with this section to require the corporation to acquire his securities of that class. Where corporation required to acquire securities

Notice

(2) Every corporation, within thirty days after it becomes aware that security holders are entitled to require it to acquire their securities under subsection (1), shall send a written notice to each such security holder that he may within sixty days after the date of such notice require the corporation to acquire his securities.

Idem

(3) The notice sent by the corporation under subsection (2) shall,

- (a) set out a price that the corporation is willing to pay for the securities;
- (b) give the basis for arriving at the price;
- (c) state the location where any supporting material used for arriving at the price may be examined and extracts taken therefrom by the security holder or his duly authorized agent; and
- (d) state that if the security holder is not satisfied with the price offered by the corporation in the notice he is entitled to have the fair value of his securities fixed by the court.

Election by
security holder

(4) Where a security holder receives a notice under subsection (2) and wishes the corporation to acquire his securities, he may, within sixty days after the date of the notice,

- (a) elect to accept the price offered by the corporation by giving notice of his acceptance to the corporation and by forthwith sending his security certificates to the corporation; or
- (b) notify the corporation that he wishes to have the fair value of his securities fixed by the court.

Application to
fix fair value

(5) Where a security holder wishes to have the fair value of his securities fixed by the court, the corporation shall make an application to the court within ninety days after the date of the notice under subsection (2).

Idem

(6) If a corporation fails to send notice under subsection (2), a security holder, after giving the corporation thirty days notice of his intention so to do, may apply to the court to have the fair value of his securities fixed.

Idem

(7) If a corporation fails to make an application to the court as required under subsection (5), a security holder may make the application.

(8) Upon an application to the court under subsection (5), (6) Parties or (7),

(a) all security holders who have notified the corporation under clause (4) (b) may be joined as parties as the court thinks fit and, if so joined, are bound by the decision of the court; and

(b) the corporation shall notify each security holder entitled to notice under subsection (2) of the date, place and purpose of the application and of his right to appear and be heard in person or by counsel.

(9) Upon an application to the court under subsection (5), (6) Idem or (7), the court may determine whether any security holders should properly be sent or have been sent notice and whether such security holders should be joined as parties.

(10) The court may appoint one or more appraisers to assist the court in fixing a fair value for the securities. Appointment of appraiser

(11) The final order of the court shall be made against the corporation in favour of each entitled security holder. Final order

(12) A security holder requesting the court to fix the fair value of his securities is not required to give security for costs on the application. Security not required

(13) The costs under this section shall be on a solicitor and client basis. *New.* Costs

189.—(1) In this section,

Interpretation

(a) “affected security” means a participating security of a corporation in which the interest of the holder would be terminated by reason of a going private transaction;

(b) “going private transaction” means an amalgamation, arrangement, consolidation or other transaction carried out under this Act by a corporation that would cause the interest of a holder of a participating security of the corporation to be terminated without the consent of the holder and without the substitution therefor of an interest of equivalent value in a participating security that,

(i) is issued by the corporation, an affiliate of the corporation or a successor body corporate, and

- (ii) is not limited in the extent of its participation in earnings to any greater extent than the participating security for which it is substituted,

but does not include,

- (iii) an acquisition under section 187,
 - (iv) a redemption of, or other compulsory termination of the interest of the holder in, a security if the security is redeemed or otherwise acquired in accordance with the terms and conditions attaching thereto or under a requirement of the articles relating to the class of securities or of this Act, or
 - (v) a proceeding under Part XVI;
- (c) “participating security” means a security issued by a body corporate other than a security that is, in all circumstances, limited in the extent of its participation in earnings and includes,
- (i) a security currently convertible into such a security, and
 - (ii) currently exercisable warrants entitling the holder to acquire such a security or such a convertible security.

Going private
transaction

(2) A corporation that proposes to carry out a going private transaction shall have prepared by an independent, qualified valuer a written valuation indicating a per security value or range of values for each class of affected securities, and,

- (a) the valuation shall be prepared or revised as of a date not more than 120 days before the announcement of the going private transaction, with appropriate adjustments for subsequent events other than the going private transaction;
- (b) the valuation shall not contain a downward adjustment to reflect the fact that the affected securities do not form part of a controlling interest; and
- (c) if the consideration to be received by the holders of the affected securities is wholly or partly other than cash, or a right to receive cash within ninety days after the approval by security holders of the going private transaction, the valuation shall include the valuer’s opinion

whether the value of each affected security to be surrendered is equal to or greater than the total value of the consideration to be received therefor.

(3) The corporation shall send a management information circular to the holders of the affected securities not less than forty days prior to the date of a meeting which shall be called by it to consider that transaction, and the information circular shall contain, in addition to any other required information and subject to any exemption granted under subsection (6),

Information
circular

- (a) a summary of the valuation prepared in compliance with subsection (2) and a statement that a holder of an affected security may inspect a copy of the valuation at the registered office of the corporation or may obtain a copy of the valuation upon request and payment of a specified amount sufficient to cover reasonable costs of reproduction and mailing;
- (b) a statement of the approval or approvals of holders of affected securities required to be obtained in accordance with this section;
- (c) a certificate signed by a senior officer or a director of the corporation certifying that he and, to his knowledge, the corporation are unaware of any material fact relevant to the valuation prepared in compliance with subsection (2) that was not disclosed to the valuer; and
- (d) a statement of the class or classes of affected securities and of the number of securities of each class and, if any securities of any such class are, under paragraph 3 of subsection (4), not to be taken into account in the vote required by subsection (4), a statement of the number thereof and why they are not to be taken into account,

but if all or any portion of a class of affected securities is represented by certificates that are not in registered form, it shall be sufficient to make the information circular available to the holders of such affected securities in the manner provided for in the terms of the securities for sending notice to such holders or otherwise in such manner as may be prescribed.

(4) A corporation shall not carry out a going private transaction unless, in addition to any other required security holder approval, the transaction is approved by the holders of each class of affected securities by a vote in accordance with the following provisions: ^{Idem}

- 1. If the consideration to be received by a holder of an affected security of the particular class is,

- i. payable wholly or partly other than in cash or a right to receive cash within ninety days after the approval of the going private transaction, or
- ii. payable entirely in cash and is less in amount than the per security value or the mid-point of the range of per security values, arrived at by the valuation prepared in compliance with subsection (2),

then the approval shall be given by a special resolution.

- 2. In cases other than those referred to in paragraph 1, the approval shall be given by an ordinary resolution.
- 3. In determining whether the transaction has been approved by the requisite majority, the votes of,
 - i. securities held by affiliates of the corporation,
 - ii. securities the beneficial owners of which will, consequent upon the going private transaction, be entitled to a per security consideration greater than that available to other holders of affected securities of the same class,
 - iii. securities the beneficial owners of which, alone or in concert with others, effectively control the corporation and who, prior to distribution of the information circular, entered into an understanding that they would support the going private transaction,

shall be disregarded both in determining the total number of votes cast and in determining the number of votes cast in favour of or against the transaction.

Effect of
section

(5) The rights provided by this section are in addition to any other rights of a holder of affected securities.

Powers of
Commission

(6) Upon an application by an interested person, the Commission may, subject to such terms and conditions as it may impose, exempt any person from any requirement of this section where in its opinion to do so would not be prejudicial to the public interest, and the Commission may publish guidelines as to the manner and circumstances in which it will exercise this discretion.

Rights of
security holder

(7) A holder of an affected security that is a share of any class of a corporation may dissent from a going private transaction upon compliance with the procedures set out in section 184, in which case he shall be entitled to the rights and remedies provided by that section. *New.*

PART XVI

LIQUIDATION AND DISSOLUTION

190. In sections 192 to 235, “contributory” means a person who is liable to contribute to the property of a corporation in the event of the corporation being wound up under this Act. R.S.O. 1980, c. 54, s. 192. Interpretation

191. Sections 192 to 204 apply to corporations being wound up voluntarily. R.S.O. 1980, c. 54, s. 193. Application of ss. 192-204

192.—(1) The shareholders of a corporation may, by special resolution, require the corporation to be wound up voluntarily. Voluntary winding up

(2) At such meeting, the shareholders shall appoint one or more persons, who may be directors, officers or employees of the corporation, as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property, and may at that or any subsequent meeting fix his remuneration and the costs, charges and expenses of the winding up. Appointment of liquidator

(3) On the application of any shareholder or creditor of the corporation or of the liquidator, the court may review the remuneration of the liquidator and, whether or not the remuneration has been fixed in accordance with subsection (2), the court may fix and determine the remuneration at such amount as it thinks proper. Review of remuneration by court

(4) A corporation shall file notice, in the prescribed form, of a resolution requiring the voluntary winding up of the corporation with the Director within ten days after the resolution has been passed and shall publish the notice in *The Ontario Gazette* within twenty days after the resolution has been passed. R.S.O. 1980, c. 54, s. 194, *amended*. Publication of notice

193. The shareholders of a corporation being wound up voluntarily may delegate to any committee of shareholders, contributories or creditors, hereinafter referred to as inspectors, the power of appointing the liquidator and filling any vacancy in the office of liquidator, or may enter into any arrangement with creditors of the corporation with respect to the powers to be exercised by the liquidator and the manner in which they are to be exercised. R.S.O. 1980, c. 54, s. 195, *amended*. Inspectors

194. If a vacancy occurs in the office of liquidator by death, resignation or otherwise, the shareholders may, subject to any arrangement the corporation may have entered into with its creditors upon the appointment of inspectors, fill such vacancy, and a meeting for that purpose may be called by the continuing Vacancy in office of liquidator

liquidator, if any, or by any shareholder or contributory, and shall be deemed to have been duly held if called in the manner prescribed by the articles or by-laws of the corporation, or, in default thereof, in the manner prescribed by this Act for calling meetings of the shareholders of the corporation. R.S.O. 1980, c. 54, s. 196, *amended*.

Removal of
liquidator

195. The shareholders of a corporation may by ordinary resolution passed at a meeting called for that purpose remove a liquidator appointed under section 192, 193 or 194, and in such case shall appoint another liquidator in his stead. R.S.O. 1980, c. 54, s. 197, *amended*.

Commence-
ment of
winding up

196. A voluntary winding up commences at the time of the passing of the resolution requiring the winding up or at such later time as may be specified in the resolution. R.S.O. 1980, c. 54, s. 198, *amended*.

Corporation
to cease
business

197. A corporation being wound up voluntarily shall, from the commencement of its winding up, cease to carry on its undertaking, except in so far as may be required as beneficial for the winding up thereof, and all transfers of shares, except transfers made to or with the sanction of the liquidator taking place after the commencement of its winding up, are void, but its corporate existence and all its corporate powers, notwithstanding that it is otherwise provided by its articles or by-laws, continue until its affairs are wound up. R.S.O. 1980, c. 54, s. 199, *amended*.

No proceedings
against
corporation
after
voluntary
winding up
except by leave

198. After the commencement of a voluntary winding up,

- (a) no action or other proceeding shall be commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1980, c. 54, s. 200.

List of
contributories
and calls

199.—(1) Upon a voluntary winding up, the liquidator,

- (a) shall settle the list of contributories; and
- (b) may, before he has ascertained the sufficiency of the property of the corporation, call on all or any of the contributories for the time being settled on the list of contributories to the extent of their liability to pay any sum that he considers necessary for satisfying the

liabilities of the corporation and the costs, charges and expenses of winding up and for adjusting the rights of the contributories among themselves.

(2) A list settled by the liquidator under clause (1) (a) is *prima facie* proof of the liability of the persons named therein to be contributories. List *prima facie* proof

(3) The liquidator in making a call under clause (1) (b) may take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the call. R.S.O. 1980, c. 54, s. 201. Default on calls

200.—(1) The liquidator may, during the continuance of the voluntary winding up, call meetings of the shareholders of the corporation for any purpose he thinks fit. Meetings of corporation during winding up

(2) Where a voluntary winding up continues for more than one year, the liquidator shall call a meeting of the shareholders of the corporation at the end of the first year and of each succeeding year from the commencement of the winding up, and he shall lay before the meeting an account showing his acts and dealings and the manner in which the winding up has been conducted during the immediately preceding year. R.S.O. 1980, c. 54, s. 202. Where winding up continues more than one year

201. The liquidator, with the approval of the shareholders of the corporation or the inspectors, may make such compromise or other arrangement as the liquidator thinks expedient with any creditor or person claiming to be a creditor or having or alleging that he has a claim, present or future, certain or contingent, liquidated or unliquidated, against the corporation or whereby the corporation may be rendered liable. R.S.O. 1980, c. 54, s. 203, *amended*. Arrangements with creditors

202. The liquidator may, with the approval referred to in section 201, comprise all debts and liabilities capable of resulting in debts, and all claims, whether present or future, certain or contingent, liquidated or unliquidated, subsisting or supposed to subsist between the corporation and any contributory, alleged contributory or other debtor or person who may be liable to the corporation and all questions in any way relating to or affecting the property of the corporation, or the winding up of the corporation, upon the receipt of such sums payable at such times and generally upon such terms as are agreed, and the liquidator may take any security for the discharge of such debts or liabilities and give a complete discharge in respect thereof. R.S.O. 1980, c. 54, s. 204. Power to compromise with debtors and contributories

Power to
accept shares,
etc., as
consideration
for sale of
property to
another body
corporate

203.—(1) Where a corporation is proposed to be or is in the course of being wound up voluntarily and it is proposed to transfer the whole or a portion of its business or property to another body corporate, the liquidator, with the approval of a resolution of the shareholders of the corporation conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, may receive, in compensation or in part-compensation for the transfer, cash or shares or other like interest in the purchasing body corporate or any other body corporate for the purpose of distribution among the creditors or shareholders of the corporation that is being wound up in the manner set forth in the arrangement, or may, in lieu of receiving cash or shares or other like interest, or in addition thereto, participate in the profits of or receive any other benefit from the purchasing body corporate or any other body corporate.

Confirmation
of sale or
arrangement

(2) A transfer made or arrangement entered into by the liquidator under this section is not binding on the shareholders of the corporation that is being wound up unless the transfer or arrangement is approved in accordance with subsections 183 (3), (6) and (7).

Where
resolution
not invalid

(3) No resolution is invalid for the purposes of this section because it was passed before or concurrently with a resolution for winding up the corporation or for appointing the liquidator. R.S.O. 1980, c. 54, s. 205, *amended*.

Account of
voluntary
winding up to
be made by
liquidator to
a meeting

204.—(1) The liquidator shall make up an account showing the manner in which the winding up has been conducted and the property of the corporation disposed of, and thereupon shall call a meeting of the shareholders of the corporation for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator, and the meeting shall be called in the manner prescribed by the articles or by-laws or, in default thereof, in the manner prescribed by this Act for the calling of meetings of shareholders.

Notice of
holding of
meeting

(2) The liquidator shall within ten days after the meeting is held file a notice in the prescribed form with the Director stating that the meeting was held and the date thereof and shall forthwith publish the notice in *The Ontario Gazette*.

Dissolution

(3) Subject to subsection (4), on the expiration of three months after the date of the filing of the notice, the corporation is dissolved.

Extension

(4) At any time during the three-month period mentioned in subsection (3), the court may, on the application of the liquidator or any other person interested, make an order deferring the date on

which the dissolution of the corporation is to take effect to a date fixed in the order, and in such event the corporation is dissolved on the date so fixed.

(5) Notwithstanding anything in this Act, the court at any time after the affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order. Dissolution by court order

(6) The person on whose application an order was made under subsection (4) or (5) shall within ten days after it was made file with the Director a certified copy of the order and forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 206, *amended*. Copy of extension order to be filed

205. Sections 206 to 217 apply to corporations being wound up by order of the court. R.S.O. 1980, c. 54, s. 207. Application of ss. 206-217

206.—(1) A corporation may be wound up by order of the court, Winding up by court

(a) where the court is satisfied that in respect of the corporation or any of its affiliates,

- (i) any act or omission of the corporation or any of its affiliates effects a result,
- (ii) the business or affairs of the corporation or any of its affiliates are or have been carried on or conducted in a manner, or
- (iii) the powers of the directors of the corporation or any of its affiliates are or have been exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer; or

(b) where the court is satisfied that,

- (i) a unanimous shareholder agreement entitled a complaining shareholder to demand dissolution of the corporation after the occurrence of a specified event and that event has occurred,
- (ii) proceedings have been begun to wind up voluntarily and it is in the interest of contributories and

creditors that the proceedings should be continued under the supervision of the court,

(iii) the corporation, though it may not be insolvent, cannot by reason of its liabilities continue its business and it is advisable to wind it up, or

(iv) it is just and equitable for some reason, other than the bankruptcy or insolvency of the corporation, that it should be wound up; or

(c) where the shareholders by special resolution authorize an application to be made to the court to wind up the corporation.

Court order (2) Upon an application under this section, the court may make such order under this section or section 247 as it thinks fit. R.S.O. 1980, c. 54, s. 208, *amended*.

Who may apply **207.**—(1) A winding-up order may be made upon the application of the corporation or of a shareholder or, where the corporation is being wound up voluntarily, of the liquidator or of a contributory or of a creditor having a claim of \$2,500 or more.

Notice (2) Except where the application is made by the corporation, four days' notice of the application shall be given to the corporation before the making of the application. R.S.O. 1980, c. 54, s. 209.

Power of court **208.** The court may make the order applied for, may dismiss the application with or without costs, may adjourn the hearing conditionally or unconditionally or may make any interim or other order as is considered just, and upon the making of the order may, according to its practice and procedure, refer the proceedings for the winding up to an officer of the court for inquiry and report and may authorize the officer to exercise such powers of the court as are necessary for the reference. R.S.O. 1980, c. 54, s. 210.

Appointment of liquidator **209.**—(1) The court in making the winding-up order may appoint one or more persons as liquidator of the estate and effects of the corporation for the purpose of winding up its business and affairs and distributing its property.

Remuneration (2) The court may at any time fix the remuneration of the liquidator.

Vacancy (3) If a liquidator appointed by the court dies or resigns or the office becomes vacant for any reason, the court may by order fill the vacancy. R.S.O. 1980, c. 54, s. 211 (1-3).

(4) A liquidator appointed by the court under this section shall forthwith give to the Director notice in the prescribed form of his appointment and shall, within twenty days after his appointment, publish the notice in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 220 (4), *amended*. Notice of appointment

210. The court may by order remove for cause a liquidator appointed by it, and in such case shall appoint another liquidator in his stead. R.S.O. 1980, c. 54, s. 212. Removal of liquidator

211. The costs, charges and expenses of a winding up by order of the court shall be taxed by a taxing officer of the Supreme Court. R.S.O. 1980, c. 54, s. 213. Costs and expenses

212. Where a winding-up order is made by the court without prior voluntary winding-up proceedings, the winding up shall, unless a court otherwise orders, be deemed to commence at the time of the service of notice of the application, and, where the application is made by the corporation, at the time the application is made. R.S.O. 1980, c. 54, s. 214. Commencement of winding up

213. Where a winding-up order has been made by the court, proceedings for the winding up of the corporation shall be taken in the same manner and with the like consequences as provided for a voluntary winding up, except that the list of contributories shall be settled by the court unless it has been settled by the liquidator before the winding-up order, in which case the list is subject to review by the court, and except that all proceedings in the winding up are subject to the order and direction of the court. R.S.O. 1980, c. 54, s. 215. Proceedings in winding up after order

214.—(1) Where a winding-up order has been made by the court, the court may direct meetings of the shareholders of the corporation to be called, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes, and may appoint a person to act as chairman of any such meeting and to report the result of it to the court. Meetings of shareholders of corporation may be ordered

(2) Where a winding-up order has been made by the court, the court may require any contributory for the time being settled on the list of contributories, or any director, officer, employee, trustee, banker or agent of the corporation to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any sum or balance, documents, records, estate or effects that are in his hands and to which the corporation is *prima facie* entitled. Order for delivery by contributories and others of property, etc.

(3) Where a winding-up order has been made by the court, the court may make an order for the inspection of the documents and Inspection of documents and records

records of the corporation by its creditors and contributories, and any documents and records in the possession of the corporation may be inspected in conformity with the order. R.S.O. 1980, c. 54, s. 216.

Proceedings
against cor-
poration after
court winding
up

215. After the commencement of a winding up by order of the court,

- (a) no action or other proceeding shall be proceeded with or commenced against the corporation; and
- (b) no attachment, sequestration, distress or execution shall be put in force against the estate or effects of the corporation,

except by leave of the court and subject to such terms as the court imposes. R.S.O. 1980, c. 54, s. 217.

Provision for
discharge and
distribution by
the court

216.—(1) Where the realization and distribution of the property of a corporation being wound up under an order of the court has proceeded so far that in the opinion of the court it is expedient that the liquidator should be discharged and that the property of the corporation remaining in his hands can be better realized and distributed by the court, the court may make an order discharging the liquidator and for payment, delivery and transfer into court, or to such person as the court directs, of such property, and it shall be realized and distributed by or under the direction of the court among the persons entitled thereto in the same way as nearly as may be as if the distribution were being made by the liquidator.

Disposal of
documents and
records

(2) In such case, the court may make an order directing how the documents and records of the corporation and of the liquidator are to be disposed of, and may order that they be deposited in court or otherwise dealt with as the court thinks fit. R.S.O. 1980, c. 54, s. 218.

Order for
dissolution

217.—(1) The court at any time after the business and affairs of the corporation have been fully wound up may, upon the application of the liquidator or any other person interested, make an order dissolving it, and it is dissolved on the date fixed in the order.

Copy of dissol-
ution order to
be filed

(2) The person on whose application the order was made shall within ten days after it was made file with the Director a certified copy of the order and shall forthwith publish notice of the order in *The Ontario Gazette*. R.S.O. 1980, c. 54, s. 219, *amended*.

Application of
ss. 219-235

218. Sections 219 to 235 apply to corporations being wound up voluntarily or by order of the court. R.S.O. 1980, c. 54, s. 220.

219. Where there is no liquidator,Where no
liquidator

- (a) the court may by order on the application of a shareholder of the corporation appoint one or more persons as liquidator; and
- (b) the estate and effects of the corporation shall be under the control of the court until the appointment of a liquidator. R.S.O. 1980, c. 54, s. 221.

220.—(1) Upon a winding up,Consequences
of winding up

- (a) the liquidator shall apply the property of the corporation in satisfaction of all its debts, obligations and liabilities and, subject thereto, shall distribute the property rateably among the shareholders according to their rights and interests in the corporation;
- (b) in distributing the property of the corporation, debts to employees of the corporation for services performed for it due at the commencement of the winding up or within one month before, not exceeding three months' wages and vacation pay accrued for not more than twelve months, shall be paid in priority to the claims of the ordinary creditors, and such persons are entitled to rank as ordinary creditors for the residue of their claims;
- (c) all the powers of the directors cease upon the appointment of a liquidator, except in so far as the liquidator may sanction the continuance of such powers.

(2) Section 53 of the *Trustee Act* applies with necessary modifications to liquidators. R.S.O. 1980, c. 54, s. 222.

Distribution of
property
R.S.O. 1980,
c. 512

221. The costs, charges and expenses of a winding up, including the remuneration of the liquidator, are payable out of the property of the corporation in priority to all other claims. R.S.O. 1980, c. 54, s. 223.

Payment of
costs and
expenses**222.—(1)** A liquidator may,Powers of
liquidators

- (a) bring or defend any action, suit or prosecution, or other legal proceedings, civil or criminal, in the name and on behalf of the corporation;
- (b) carry on the business of the corporation so far as may be required as beneficial for the winding up of the corporation;

- (c) sell the property of the corporation by public auction or private sale and receive payment of the purchase price either in cash or otherwise;
- (d) do all acts and execute, in the name and on behalf of the corporation, all documents, and for that purpose use the seal of the corporation, if any;
- (e) draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the corporation;
- (f) raise upon the security of the property of the corporation any requisite money;
- (g) take out in his official name letters of administration of the estate of any deceased contributory and do in his official name any other act that is necessary for obtaining payment of any money due from a contributory or from his estate and which act cannot be done conveniently in the name of the corporation; and
- (h) do and execute all such other things as are necessary for winding up the business and affairs of the corporation and distributing its property.

Bills of exchange, etc., to be deemed drawn in the course of business

(2) The drawing, accepting, making or endorsing of a bill of exchange or promissory note by the liquidator on behalf of a corporation has the same effect with respect to the liability of the corporation as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the corporation in the course of carrying on its business.

Where moneys deemed to be due to liquidator

(3) Where the liquidator takes out letters of administration or otherwise uses his official name for obtaining payment of any money due from a contributory, such money shall be deemed, for the purpose of enabling him to take out such letters or recover such money, to be due to the liquidator himself.

What liquidator may rely upon

(4) Where he does so in good faith, a liquidator is entitled to rely upon,

- (a) financial statements of the corporation represented to him by an officer of the corporation or in a written report of the auditor of the corporation to present fairly the financial position of the corporation in accordance with generally accepted accounting principles; or
- (b) an opinion, a report or a statement of a lawyer, an accountant, an engineer, an appraiser or other profes-

sional adviser retained by the liquidator. R.S.O. 1980, c. 54, s. 224, *amended*.

223. Where more than one person is appointed as liquidator, any power conferred by sections 192 to 235 on a liquidator may be exercised by such one or more of such persons as may be determined by the resolution or order appointing them or, in default of such determination, by any number of them not fewer than two. R.S.O. 1980, c. 54, s. 225.

Acts by more than one liquidator

224. The liability of a contributory creates a debt accruing due from him at the time his liability commenced, but payable at the time or respective times when calls are made for enforcing such liability. R.S.O. 1980, c. 54, s. 226.

Nature of liability of contributory

225. If a contributory dies before or after he has been placed on the list of contributories, his personal representative is liable in due course of administration to contribute to the property of the corporation in discharge of the liability of the deceased contributory and shall be a contributory accordingly. R.S.O. 1980, c. 54 s. 227.

Liability in case of his death

226.—(1) The liquidator shall deposit all moneys that he has belonging to the corporation and amounting to \$100 or more in any chartered bank of Canada or in the Province of Ontario Savings Office or in any trust company or loan corporation that is registered under the *Loan and Trust Corporations Act* or in any other depository approved by the court. R.S.O. 1980, c. 54, s. 228 (1), *amended*.

Deposit of moneys

R.S.O. 1980, c. 249

(2) If inspectors have been appointed, the depository under subsection (1) shall be one approved by them.

Approval by inspectors

(3) Such deposit shall not be made in the name of the liquidator individually, but a separate deposit account shall be kept of the money belonging to the corporation in his name as liquidator of the corporation and in the name of the inspectors, if any, and such money shall be withdrawn only by order for payment signed by the liquidator and one of the inspectors, if any.

Separate deposit account to be kept; withdrawal from account

(4) At every meeting of the shareholders of the corporation, the liquidator shall produce a pass-book, or statement of account showing the amount of the deposits, the dates at which they were made, the amounts withdrawn and the dates of withdrawal, and mention of such production shall be made in the minutes of the meeting, and the absence of such mention is admissible in evidence as *prima facie* proof that the pass-book or statement of account was not produced at the meeting.

Liquidator to produce bank pass-book

Idem

(5) The liquidator shall also produce the pass-book or statement of account whenever so ordered by the court upon the application of the inspectors, if any, or of a shareholder of the corporation. R.S.O. 1980, c. 54, s. 228 (2-5).

Proving claim
R.S.O. 1980,
c. 33

227. For the purpose of proving claims, sections 23, 24 and 25 of the *Assignments and Preferences Act* apply with necessary modifications, except that where the word “judge” is used therein, the word “court” as used in this Act shall be substituted. R.S.O. 1980, c. 54, s. 229.

Application
for direction

228. Upon the application of the liquidator or of the inspectors, if any, or of any creditors, the court, after hearing such parties as it directs to be notified or after such steps as the court prescribes have been taken, may by order give its direction in any matter arising in the winding up. R.S.O. 1980, c. 54, s. 230.

Examination
of persons
as to
estate

229.—(1) The court may at any time after the commencement of the winding up summon to appear before the court or liquidator any director, officer or employee of the corporation or any other person known or suspected to have in his possession any of the estate or effects of the corporation, or alleged to be indebted to it, or any person whom the court thinks capable of giving information concerning its trade, dealings, estate or effects.

Damages
against
delinquent
directors,
etc.

(2) Where in the course of the winding up it appears that a person who has taken part in the formation or promotion of the corporation or that a past or present director, officer, employee, liquidator or receiver of the corporation has misapplied or retained in his own hands, or become liable or accountable for, property of the corporation, or has committed any misfeasance or breach of trust in relation to it, the court may, on the application of the liquidator or of any creditor, shareholder or contributory, examine the conduct of that person and order him to restore the property so misapplied or retained, or for which he has become liable or accountable, or to contribute such sum to the property of the corporation by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust, or both, as the court thinks just. R.S.O. 1980, c. 54, s. 231.

Proceedings
by
shareholders

230.—(1) Where a shareholder of the corporation desires to cause any proceeding to be taken that, in his opinion, would be for the benefit of the corporation, and the liquidator, under the authority of the shareholders or of the inspectors, if any, refuses or neglects to take such proceedings after being required so to do, the shareholder may obtain an order of the court authorizing him to take such proceeding in the name of the liquidator or corporation, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidator or corporation as the court prescribes.

(2) Any benefit derived from a proceeding under subsection (1) belongs exclusively to the shareholder causing the institution of the proceeding for his benefit and that of any other shareholder who has joined him in causing the institution of the proceeding. Benefits: when for shareholders

(3) If, before the order is granted, the liquidator signifies to the court his readiness to institute the proceeding for the benefit of the corporation, the court shall make an order prescribing the time within which he is to do so, and in that case the advantage derived from the proceeding, if instituted within such time, belongs to the corporation. R.S.O. 1980, c. 54, s. 232. when for corporation

231. The rights conferred by this Act are in addition to any other right to institute proceedings against any contributory, or against any debtor of the corporation, for the recovery of any sum due from such contributory or debtor or his estate. R.S.O. 1980, c. 54, s. 233. Rights conferred by Act to be in addition to other powers

232. At any time during a winding up, the court, upon the application of a shareholder, creditor or contributory and upon proof to its satisfaction that all proceedings in relation to the winding up ought to be stayed, may make an order staying the proceedings altogether or for a limited time on such terms and subject to such conditions as the court thinks fit. R.S.O. 1980, c. 54, s. 234. Stay of winding up proceedings

233.—(1) Where the liquidator is unable to pay all the debts of the corporation because a creditor is unknown or his whereabouts is unknown, the liquidator may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and thereupon subsections 237 (5) and (6) apply thereto. Where creditor unknown

(2) A payment under subsection (1) shall be deemed to be in satisfaction of the debt for the purposes of winding up. R.S.O. 1980, c. 54, s. 235. Idem

234.—(1) Where the liquidator is unable to distribute rateably the property of the corporation among the shareholders because a shareholder is unknown or his whereabouts is unknown, the share of the property of the corporation of such shareholder may, by agreement with the Public Trustee, be delivered or conveyed by the liquidator to the Public Trustee to be held in trust for the shareholder, and thereupon subsections 237 (5) and (6) apply thereto. Where shareholder unknown

(2) A delivery or conveyance under subsection (1) shall be deemed to be a distribution to that shareholder of his rateable Idem

share for the purposes of the winding up. R.S.O. 1980, c. 54, s. 236.

Disposal of
records, etc.,
after
winding up

235.—(1) Where a corporation has been wound up under sections 191 to 234 and is about to be dissolved, its documents and records and those of the liquidator may be disposed of as it by resolution directs in case of voluntary winding up, or as the court directs in case of winding up under an order.

When
responsibility
as to custody
of records,
etc., to cease

(2) After the expiration of five years after the date of the dissolution of the corporation, no responsibility rests on it or the liquidator, or anyone to whom the custody of the documents and records has been committed, by reason that the same or any of them are not forthcoming to any person claiming to be interested therein. R.S.O. 1980, c. 54, s. 237.

Voluntary
dissolution

236. A corporation may be dissolved upon the authorization of,

- (a) a special resolution passed at a meeting of the shareholders of the corporation duly called for the purpose or, in the case of a corporation that is not an offering corporation, by such other proportion of the votes cast as the articles provide, but such other proportion shall not be less than 50 per cent of the votes of all the shareholders entitled to vote at the meeting;
- (b) the consent in writing of all the shareholders entitled to vote at such meeting; or
- (c) all its incorporators or their personal representatives at any time within two years after the date set out in its certificate of incorporation where the corporation has not commenced business and has not issued any shares. R.S.O. 1980, c. 54, s. 238, *amended*.

Articles of
dissolution
where
corporation
active

237.—(1) For the purpose of bringing the dissolution authorized under clause 236 (a) or (b) into effect, articles of dissolution shall follow the prescribed form and shall set out,

- (a) the name of the corporation;
- (b) that its dissolution has been duly authorized under clause 236 (a) or (b);
- (c) that it has no debts, obligations or liabilities or its debts, obligations or liabilities have been duly provided for in accordance with subsection (3) or its creditors or other

persons having interests in its debts, obligations or liabilities consent to its dissolution;

- (d) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute among its shareholders or that it has distributed its remaining property rateably among its shareholders according to their rights and interests in the corporation or in accordance with subsection (4) where applicable;
- (e) that there are no proceedings pending in any court against it; and
- (f) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its principal place of business in Ontario or, if it does not have a place of business in Ontario, where it has its registered office. R.S.O. 1980, c. 54, s. 139 (1), *amended*.

(2) For the purpose of bringing a dissolution authorized under clause 236 (c) into effect, articles of dissolution shall follow the prescribed form and shall set out,

Articles of
dissolution
where
corporation
never active

- (a) the name of the corporation;
- (b) the date set out in its certificate of incorporation;
- (c) that the corporation has not commenced business;
- (d) that none of its shares has been issued;
- (e) that dissolution has been duly authorized under clause 236 (c);
- (f) that it has no debts, obligations or liabilities;
- (g) that after satisfying the interests of creditors in all its debts, obligations and liabilities, if any, it has no property to distribute or that it has distributed its remaining property to the persons entitled thereto;
- (h) that there are no proceedings pending in any court against it; and
- (i) that it has given notice of its intention to dissolve by publication once in *The Ontario Gazette* and once in a newspaper having general circulation in the place where it has its registered office. R.S.O. 1980, c. 54, s. 239 (2), *amended*.

Where creditor
unknown

(3) Where a corporation authorizes its dissolution and a creditor is unknown or his whereabouts is unknown, the corporation may, by agreement with the Public Trustee, pay to the Public Trustee an amount equal to the amount of the debt due to the creditor to be held in trust for the creditor, and such payment shall be deemed to be due provision for the debt for the purposes of clause (1) (c).

Where
shareholder
unknown

(4) Where a corporation authorizes its dissolution and a shareholder is unknown or his whereabouts is unknown, it may, by agreement with the Public Trustee, deliver or convey his share of the property to the Public Trustee to be held in trust for him, and such delivery or conveyance shall be deemed to be a distribution to that shareholder of his rateable share for the purposes of the dissolution.

Power to
convert

(5) If the share of the property so delivered or conveyed to the Public Trustee under subsection (4) is in a form other than cash, the Public Trustee may at any time, and within ten years after such delivery or conveyance shall, convert it into cash.

Payment to
person entitled

(6) If the amount paid under subsection (3) or the share of the property delivered or conveyed under subsection (4) or its equivalent in cash, as the case may be, is claimed by the person beneficially entitled thereto within ten years after it was so delivered, conveyed or paid, it shall be delivered, conveyed or paid to him, but, if not so claimed, it vests in the Public Trustee for the use of Ontario, and, if the person beneficially entitled thereto at any time thereafter establishes his right thereto to the satisfaction of the Lieutenant Governor in Council, an amount equal to the amount so vested in the Public Trustee shall be paid to him. R.S.O. 1980, c. 54, s. 239 (3-6).

Certificate of
dissolution

238.—(1) Upon receipt of the articles of dissolution, the Director shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of dissolution.

Incorporators
to sign articles
of dissolution
where corpora-
tion did not
commence
business

(2) Notwithstanding clause 272 (1) (a), articles of dissolution for the purposes of subsection 237 (2) shall be signed by all its incorporators or their personal representatives. R.S.O. 1980, c. 54, s. 240, *amended*.

Cancellation of
certificate, etc.,
by Director

239.—(1) Where sufficient cause is shown to the Director, notwithstanding the imposition of any other penalty in respect thereof and in addition to any rights he may have under this or any other Act, he may, after he has given the corporation an opportunity to be heard, by order, upon such terms and conditions as he thinks fit, cancel a certificate of incorporation or any other certificate issued by him under this Act, and,

- (a) in the case of the cancellation of a certificate of incorporation, the corporation is dissolved on the date fixed in the order; and
- (b) in the case of the cancellation of any other certificate, the matter that became effective upon the issuance of the certificate ceases to be in effect from the date fixed in the order.

(2) In this section, "sufficient cause" with respect to cancellation of a certificate of incorporation includes, Interpretation

- (a) failure to pay the prescribed fee for incorporation;
- (b) failure to comply with subsection 115 (2) or subsection 118 (3);
- (c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; R.S.O. 1980, c. 96
- (d) a conviction of the corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where cancellation of the certificate is in the public interest; or R.S.C. 1970, c. C-34
R.S.O. 1980, c. 400
- (e) conduct described in subsection 247 (2). R.S.O. 1980, c. 54, s. 241, amended.

240.—(1) Where the Director is notified by the Minister of Revenue that a corporation is in default in complying with the provisions of the *Corporations Tax Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation remedies its default within ninety days after the giving of the notice. Notice of dissolution
R.S.O. 1980, c. 97

(2) Where the Director is notified by the Commission that a corporation has not complied with sections 76 and 77 of the *Securities Act*, the Director may give notice by registered mail to the corporation or by publication once in *The Ontario Gazette* that an order dissolving the corporation will be issued unless the corporation complies with sections 76 and 77 of the *Securities Act* within ninety days after the giving of the notice. Idem
R.S.O. 1980, c. 466

(3) Upon default in compliance with the notice given under subsection (1) or (2), the Director may by order cancel the certificate of incorporation and, subject to subsection (4), the corporation is dissolved on the date fixed in the order. Order for dissolution

Revival

(4) Where a corporation is dissolved under subsection (3) or any predecessor thereof, the Director on the application of any interested person immediately before the dissolution, made within five years after the date of dissolution, may, in his discretion, on such terms and conditions as he sees fit to impose, revive the corporation and thereupon the corporation, subject to the terms and conditions imposed by the Director and to any rights acquired by any person after its dissolution, is restored to its legal position, including all its property, rights and privileges and franchises, and is subject to all its liabilities, contracts, disabilities and debts, as of the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved.

Articles of revival

(5) The application referred to in subsection (4) shall be in the form of articles of revival which shall be in prescribed form.

Certificate of revival

(6) Upon receipt of articles of revival and any other prescribed documents, the Director, subject to subsection (4), shall endorse thereon in accordance with section 272 a certificate which shall constitute the certificate of revival. R.S.O. 1980, c. 54, s. 242, *amended*.

Actions after dissolution

241.—(1) Notwithstanding the dissolution of a corporation under section 238, 239 or 240,

- (a) a civil, criminal or administrative action or proceeding commenced by or against the corporation before its dissolution may be continued as if the corporation had not been dissolved;
- (b) a civil, criminal or administrative action or proceeding may be brought against the corporation within five years after its dissolution as if the corporation had not been dissolved; and
- (c) any property that would have been available to satisfy any judgment or order if the corporation had not been dissolved remains available for such purpose.

Service after dissolution

(2) For the purposes of this section, the service of any process on a corporation after its dissolution shall be deemed to be sufficiently made if it is made upon any person last shown on the records of the Ministry as being a director or officer of the corporation before the dissolution. R.S.O. 1980, c. 54, s. 243.

Idem

(3) Where an action, suit or other proceeding has been brought against a corporation after its dissolution, notice of the commencement of the action, suit or other proceeding, together with the writ or other document by which the action, suit or other proceeding was commenced, shall be served upon the Public Trustee. *New*.

242.—(1) Notwithstanding the dissolution of a corporation, each shareholder to whom any of its property has been distributed is liable to any person claiming under section 241 to the extent of the amount received by that shareholder upon the distribution, and an action to enforce such liability may be brought within five years after the date of the dissolution of the corporation.

Liability of
shareholders
to creditors

(2) The court may order an action referred to in subsection (1) to be brought against the persons who were shareholders as a class, subject to such conditions as the court thinks fit and, if the plaintiff establishes his claim, the court may refer the proceedings to a referee or other officer of the court who may,

Party
action

- (a) add as a party to the proceedings before him each person who was a shareholder found by the plaintiff;
- (b) determine, subject to subsection (1), the amount that each person who was a shareholder shall contribute towards satisfaction of the plaintiff's claim; and
- (c) direct payment of the amounts so determined.

(3) In this section, "shareholder" includes the heirs and legal representatives of a shareholder. R.S.O. 1980, c. 54, s. 244, *amended*.

Interpre-
tation

243.—(1) Any property of a corporation that has not been disposed of at the date of its dissolution is immediately upon such dissolution forfeit to the Crown. R.S.O. 1980, c. 54, s. 245, *amended*.

Forfeiture of
undisposed
property

(2) Where judgment is given or an order or decision is made in an action, suit or proceeding commenced in accordance with the provisions of section 241 and the judgment, order or decision affects property formerly belonging to the corporation, the property, notwithstanding subsection (1), shall be available to satisfy the judgment, order or other decision unless the plaintiff or applicant has failed to give notice to the Public Trustee in accordance with subsection 241 (3). *New*.

Exception

PART XVII

REMEDIES, OFFENCES AND PENALTIES

244. In this Part,

Interpre-
tation

- (a) "action" means an action under this Act;
- (b) "complainant" means,

- (i) a registered holder or beneficial owner, and a former registered holder or beneficial owner, of a security of a corporation or any of its affiliates,
- (ii) a director or an officer or a former director or officer of a corporation or of any of its affiliates,
- (iii) any other person who, in the discretion of the court, is a proper person to make an application under this Part. *New.*

Derivative
actions

245.—(1) Subject to subsection (2), a complainant may apply to the court for leave to bring an action in the name and on behalf of a corporation or any of its subsidiaries, or intervene in an action to which any such body corporate is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the body corporate.

Idem

(2) No action may be brought and no intervention in an action may be made under subsection (1) unless the complainant has given fourteen days' notice to the directors of the corporation or its subsidiary of his intention to apply to the court under subsection (1) and the court is satisfied that,

- (a) the directors of the corporation or its subsidiary will not bring, diligently prosecute or defend or discontinue the action;
- (b) the complainant is acting in good faith; and
- (c) it appears to be in the interests of the corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued.

Ex parte
application

(3) Where a complainant on an *ex parte* application can establish to the satisfaction of the court that it is not expedient to give notice as required under subsection (2), the court may make such interim order as it thinks fit pending the complainant giving notice as required.

Interim
order

(4) Where a complainant on an application can establish to the satisfaction of the court that an interim order for relief should be made, the court may make such order as it thinks fit. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Court
order

246. In connection with an action brought or intervened in under section 245, the court may at any time make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order authorizing the complainant or any other person to control the conduct of the action;
- (b) an order giving directions for the conduct of the action;
- (c) an order directing that any amount adjudged payable by a defendant in the action shall be paid, in whole or in part, directly to former and present security holders of the corporation or its subsidiary instead of to the corporation or its subsidiary; and
- (d) an order requiring the corporation or its subsidiary to pay reasonable legal fees and any other costs reasonably incurred by the complainant in connection with the action. R.S.O. 1980, c. 54, s. 97, *part, amended*.

247.—(1) A complainant, the Director and, in the case of an offering corporation, the Commission may apply to the court for an order under this section. Application to court: oppression remedy

(2) Where, upon an application under subsection (1), the court is satisfied that in respect of a corporation or any of its affiliates, Idem

- (a) any act or omission of the corporation or any of its affiliates effects or threatens to effect a result;
- (b) the business or affairs of the corporation or any of its affiliates are, have been or are threatened to be carried on or conducted in a manner; or
- (c) the powers of the directors of the corporation or any of its affiliates are, have been or are threatened to be exercised in a manner,

that is oppressive or unfairly prejudicial to or that unfairly disregards the interests of any security holder, creditor, director or officer of the corporation, the court may make an order to rectify the matters complained of.

(3) In connection with an application under this section, the court may make any interim or final order it thinks fit including, Court order without limiting the generality of the foregoing,

- (a) an order restraining the conduct complained of;
- (b) an order appointing a receiver or receiver-manager;
- (c) an order to regulate a corporation's affairs by amending the articles or by-laws or creating or amending a unanimous shareholder agreement;

- (d) an order directing an issue or exchange of securities;
- (e) an order appointing directors in place of or in addition to all or any of the directors then in office;
- (f) an order directing a corporation, subject to subsection (6), or any other person, to purchase securities of a security holder;
- (g) an order directing a corporation, subject to subsection (6), or any other person, to pay to a security holder any part of the moneys paid by him for securities;
- (h) an order varying or setting aside a transaction or contract to which a corporation is a party and compensating the corporation or any other party to the transaction or contract;
- (i) an order requiring a corporation, within a time specified by the court, to produce to the court or an interested person financial statements in the form required by section 153 or an accounting in such other form as the court may determine;
- (j) an order compensating an aggrieved person;
- (k) an order directing rectification of the registers or other records of a corporation under section 249;
- (l) an order winding up the corporation under section 206;
- (m) an order directing an investigation under Part XIII be made; and
- (n) an order requiring the trial of any issue.

Idem

(4) Where an order made under this section directs amendment of the articles or by-laws of a corporation,

- (a) the directors shall forthwith comply with subsection 185 (4); and
- (b) no other amendment to the articles or by-laws shall be made without the consent of the court, until the court otherwise orders.

Shareholder
may not
dissent

(5) A shareholder is not entitled to dissent under section 184 if an amendment to the articles is effected under this section.

(6) A corporation shall not make a payment to a shareholder under clause (3) (f) or (g) if there are reasonable grounds for believing that,

Where
corporation
prohibited
from
paying
shareholder

(a) the corporation is or, after the payment, would be unable to pay its liabilities as they become due; or

(b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.

New.

248.—(1) An application made or an action brought or intervened in under this Part shall not be stayed or dismissed by reason only that it is shown that an alleged breach of a right or duty owed to the corporation or its affiliate has been or may be approved by the shareholders of such body corporate, but evidence of approval by the shareholders may be taken into account by the court in making an order under section 206, 246 or 247. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Discontinu-
ance and
settlement

(2) An application made or an action brought or intervened in under this Part shall not be stayed, discontinued, settled or dismissed for want of prosecution without the approval of the court given upon such terms as the court thinks fit and, if the court determines that the interests of any complainant may be substantially affected by such stay, discontinuance, settlement or dismissal, the court may order any party to the application or action to give notice to the complainant.

Idem

(3) A complainant is not required to give security for costs in any application made or action brought or intervened in under this Part.

Costs

(4) In an application made or an action brought or intervened in under this Part, the court may at any time order the corporation or its affiliate to pay to the complainant interim costs, including reasonable legal fees and disbursements, for which interim costs the complainant may be held accountable to the corporation or its affiliate upon final disposition of the application or action. R.S.O. 1980, c. 54, s. 97, *part, amended.*

Idem

249.—(1) Where the name of a person is alleged to be or have been wrongly entered or retained in, or wrongly deleted or wrongly omitted from, the registers or other records of a corporation, the corporation, a security holder of the corporation or any aggrieved person may apply to the court for an order that the registers or records be rectified.

Rectifying
error in
entering, etc.,
name

Idem

(2) In connection with an application under this section, the court may make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order requiring the registers or other records of the corporation to be rectified;
- (b) an order restraining the corporation from calling or holding a meeting of shareholders or paying a dividend or making any other distribution or payment to shareholders before the rectification;
- (c) an order determining the right of a party to the proceedings to have his name entered or retained in, or deleted or omitted from, the registers or records of the corporation, whether the issue arises between two or more security holders, or between the corporation and any security holders or alleged security holders;
- (d) an order compensating a party who has incurred a loss. R.S.O. 1980, c. 54, s. 159, *amended*.

Notice of
refusal
to file

250.—(1) Where the Director refuses to endorse a certificate on articles or any other document required by this Act to be endorsed with a certificate by him before it becomes effective, he shall give written notice to the person who delivered the articles or other document of his refusal, specifying the reasons therefor.

Failure to
act deemed
refusal

(2) Where, within six months after the delivery to the Director of articles or other documents referred to in subsection (1), the Director has not endorsed a certificate on such articles or other document, he shall be deemed for the purposes of section 251 to have refused to endorse it. R.S.O. 1980, c. 54, s. 260, *amended*.

Appeal from
Director

251.—(1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse a certificate on articles or on any other document;
- (b) to issue or to refuse to issue a certificate of amendment under section 12;
- (c) to refuse to grant an order under section 144;
- (d) to grant or refuse to grant exemption under section 148;

(e) to refuse to endorse an authorization under section 180;
or

(f) to issue an order under section 239,

may appeal to the Divisional Court.

(2) Every appeal shall be by notice of motion sent by registered mail to the Director within thirty days after the mailing of the notice of the decision. Form of appeal

(3) The Director shall certify to the Registrar of the Supreme Court, Certificate of Director

(a) the decision of the Director together with a statement of the reasons therefor;

(b) the record of any hearing; and

(c) all written submissions to the Director or other material that is relevant to the appeal.

(4) The Director is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Representation

(5) Where an appeal is taken under this section, the court may by its order direct the Director to make such decision or to do such other act as the Director is authorized and empowered to do under this Act and as the court thinks proper, having regard to the material and submissions before it and to this Act, and the Director shall make such decision or do such act accordingly. Court order

(6) Notwithstanding an order of the court under subsection (5), the Director has power to make any further decision upon new material or where there is a material change in the circumstances, and every such decision is subject to this section. R.S.O. 1980, c. 54, s. 261, *amended*. Director may make further decision

252.—(1) Where a corporation or any shareholder, director, officer, employee, agent, auditor, trustee, receiver and manager, receiver, or liquidator of a corporation does not comply with this Act, the regulations, articles, by-laws, or a unanimous shareholder agreement, a complainant or a creditor of the corporation may, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other right he has, apply to the court for an order directing the corporation or any person to comply with, or restraining the corporation or any Orders for compliance

person from acting in breach of, any provisions thereof, and upon such application the court may so order and make any further order it thinks fit.

Idem

(2) Where it appears to the Commission that any person to whom section 111 or subsection 112 (1) applies has failed to comply with or is contravening either or both of such provisions, notwithstanding the imposition of any penalty in respect of such non-compliance or contravention, the Commission may apply to the court and the court may, upon such application, make any order it thinks fit including, without limiting the generality of the foregoing,

- (a) an order restraining a solicitation, the holding of a meeting or any person from implementing or acting upon any resolution passed at a meeting, to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates;
- (b) an order requiring correction of any form of proxy or information circular and a further solicitation; or
- (c) an order adjourning the meeting to which such non-compliance with or contravention of section 111 or subsection 112 (1) relates. R.S.O. 1980, c. 54, s. 252, *amended*.

Ex parte
application

253. Where this Act states that a person may apply to the court, that person may apply for injunctive relief *ex parte* as the rules of the court provide. *New*.

Appeal

254. An appeal lies to the Divisional Court from any order made by the court under this Act. *New*.

Interpre-
tation

255.—(1) In this section, “misrepresentation” means,

- (a) an untrue statement of material fact; or
- (b) an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in the light of the circumstances in which it was made.

Offence, false
statements,
etc.

(2) Every person who,

- (a) makes or assists in making a statement in any material, evidence or information submitted or given under this

Act or the regulations to the Director, his delegate or the Commission or any person appointed to make an investigation or audit under this Act that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;

- (b) makes or assists in making a statement in any application, articles, consent, financial statement, information circular, notice, report or other document required to be filed with, furnished or sent to the Director or the Commission under this Act or the regulations that, at the time and in the light of the circumstances under which it is made, is a misrepresentation;
- (c) fails to file with the Director or the Commission any document required by this Act to be filed with him or the Commission; or
- (d) fails to observe or to comply with any direction, decision, ruling, order or other requirement made by the Director or the Commission under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or, if such person is a body corporate, to a fine of not more than \$25,000.

(3) Where a body corporate is guilty of an offence under sub-section (2), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in the offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. Idem

(4) No person is guilty of an offence under clause (2) (a) or (b) if he did not know and in the exercise of reasonable diligence could not have known that the statement was a misrepresentation. Defence
R.S.O. 1980, c. 54, ss. 247, 248, 250 (2).

256. No proceeding under section 255 shall be commenced except with the consent or under the direction of the Minister. Consent
R.S.O. 1980, c. 54, s. 249.

257.—(1) Every person who,

Offence

- (a) fails without reasonable cause to comply with subsection 29 (5);

- (b) without reasonable cause uses a list of holders of securities in contravention of subsection 52 (5) or subsection 146 (8);
- (c) fails without reasonable cause to send a prescribed form of proxy to each shareholder of an offering corporation with notice of a meeting of shareholders in contravention of subsection 111 (1);
- (d) fails without reasonable cause to send an information circular in connection with a proxy solicitation in contravention of subsection 112 (1);
- (e) being a proxyholder or alternate proxyholder, fails without reasonable cause, to comply with the directions of the shareholder who appointed him in contravention of subsection 114 (1);
- (f) without reasonable cause contravenes section 145;
- (g) being a director of a corporation, fails, without reasonable cause, to appoint an auditor or auditors, as the case may be, under subsection 149 (1);
- (h) being an auditor or former auditor of a corporation fails without reasonable cause to comply with subsection 150 (2);
- (i) fails without reasonable cause to comply with subsection 153 (1); or
- (j) otherwise without reasonable cause commits an act contrary to or fails or neglects to comply with any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both, or if such person is a body corporate, to a fine of not more than \$25,000.

Idem

(2) Where a body corporate is guilty of an offence under subsection (1), every director or officer of such body corporate who, without reasonable cause, authorized, permitted or acquiesced in such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. *New.*

Limitation

258.—(1) No proceeding under section 255 or under clause 257 (1) (j) for a contravention of section 144 shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Director as certified by him.

(2) Subject to subsection (1), no proceeding for an offence under this Act or the regulations shall be commenced more than two years after the time when the subject-matter of the offence arose. R.S.O. 1980, c. 54, s. 251, *amended*.

259. An information in respect of any contravention of this Act may be for one or more offences and no information, summons, warrant, conviction or other proceeding in any prosecution is objectionable as insufficient by reason of the fact that it relates to two or more offences. *New*.

260. No civil remedy for an act or omission is suspended or affected by reason that the act or omission is an offence under this Act. *New*.

PART XVIII

GENERAL

261.—(1) A notice or document required by this Act, the regulations, the articles or the by-laws to be sent to a shareholder or director of a corporation may be sent by prepaid mail addressed to, or may be delivered personally to,

(a) a shareholder at his latest address as shown in the records of the corporation or its transfer agent; and

(b) a director at his latest address as shown in the records of the corporation or in the most recent notice filed under the *Corporations Information Act*, whichever is the more current.

(2) A notice or document sent in accordance with subsection (1) to a shareholder or director of a corporation is deemed to be received by the addressee on the fifth day after mailing.

(3) A director named in the articles or the most recent return or notice filed under the *Corporations Information Act*, or a predecessor thereof, is presumed for the purposes of this Act to be a director of the corporation referred to in the articles, return or notice.

(4) Where a corporation sends a notice or document to a shareholder in accordance with subsection (1) and the notice or document is returned on three consecutive occasions because the shareholder cannot be found, the corporation is not required to send any

further notices or documents to the shareholder until he informs the corporation in writing of his new address.

Application
to court

(5) Where it is impracticable or impossible to comply with subsection (1), a person may apply to the court for such order as the court thinks fit. R.S.O. 1980, c. 54, s. 246, *part, amended*.

Notice to
corporation

262. Except where otherwise provided in this Act, a notice or document required to be sent to a corporation may be sent to the corporation by prepaid mail at its registered office as shown on the records of the Director or may be delivered personally to the corporation at such office and shall be deemed to be received by the corporation on the fifth day after mailing. R.S.O. 1980, c. 54, s. 246 (3), *amended*.

Waiver of
notice and
abridgement of
times

263. Where a notice or document is required by this Act or the regulations to be sent, the notice may be waived or the time for the sending of the notice or document may be waived or abridged at any time with the consent in writing of the person entitled thereto. R.S.O. 1980, c. 54, s. 246 (4), *amended*.

Delegation
of powers
and duties

264.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry. *New*.

Execution of
certificate of
Director

(2) Where this Act requires or authorizes the Director to endorse or issue a certificate or to certify any fact, the certificate shall be signed by the Director or any other person designated by the regulations.

Certificate as
evidence

(3) A certificate referred to in subsection (2) or a certified copy thereof, when introduced as evidence in any civil, criminal, or administrative action or proceeding, is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the certificate.

Mechanical
reproduction of
signature

(4) For the purposes of subsections (2) and (3), any signature of the Director or any signature of an officer of the Ministry designated by the regulations may be printed or otherwise mechanically reproduced. R.S.O. 1980, c. 54, s. 257, *amended*.

Certificate
that may be
signed by
directors, etc.

265.—(1) A certificate issued on behalf of a corporation stating any fact that is set out in the articles, the by-laws, a unanimous shareholder agreement, the minutes of the meetings of the directors, a committee of directors or the shareholders, or a trust indenture or other contract to which the corporation is a party, may be signed by a director, an officer or a transfer agent of the corporation.

(2) When introduced as evidence in any civil, criminal or administrative action or proceeding, *Prima facie evidence*

- (a) a fact stated in a certificate referred to in subsection (1);
- (b) a certified extract from a register of a corporation required to be maintained by this Act; or
- (c) a certified copy of minutes or extract from minutes of a meeting of shareholders, directors or a committee of directors of a corporation,

is, in the absence of evidence to the contrary, proof of the facts so certified without proof of the signature or official character of the person appearing to have signed the certificate.

(3) An entry in a securities register of, or a security certificate issued by, a corporation is, in the absence of evidence to the contrary, proof that the person in whose name the security is registered or whose name appears on the certificate is the owner of the securities described in the register or in the certificate, as the case may be. *Idem New.*

266.—(1) Where a notice or document is required to be sent to the Director under this Act, the Director may accept a photo-static or photographic copy thereof. *Copy of document acceptable*

(2) Subsection (1) does not apply to articles, applications or documents filed under subsection 9 (3). *Exception to subs. (1) New.*

267.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. *Proof by affidavit*

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath. R.S.O. 1980, c. 54, s. 254, *amended.* *Oaths at hearings*

268. The Director shall cause notice to be published forthwith in *The Ontario Gazette*, *Publication of notices in The Ontario Gazette*

- (a) of every endorsement of a certificate in accordance with section 272;
- (b) of every order made under subsection 144 (3) or (4), section 239 or subsection 240 (3); and

- (c) of every endorsement of a corrected certificate described in subsection 273 (3). R.S.O. 1980, c. 54, s. 255, *amended*.

Examination,
etc., of
documents

269.—(1) A person who has paid the prescribed fee is entitled during usual business hours to examine and to make copies of or extracts from any document required by this Act or the regulations to be sent to the Director or the Commission, except a report sent to the Director under subsection 161 (2) that the court has ordered not to be made available to the public.

Copies to be
furnished

(2) Subject to clause 161 (1) (j), the Director or the Commission shall furnish any person with a copy or a certified copy of a document required by this Act or the regulations to be sent to the Director or the Commission. *New*.

Appeal from
Commission

R.S.O. 1980,
c. 466

270. Any person aggrieved by a decision of the Commission under this Act may appeal the decision to the Divisional Court and subsections 9 (2) to (6) of the *Securities Act* apply to the appeal. R.S.O. 1980, c. 54, s. 262, *amended*.

Regulations

271. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act including, without limiting the generality of the foregoing, regulations,

1. respecting names of corporations or classes thereof, the designation, rights, privileges, restrictions or conditions attaching to shares or classes of shares of corporations, or any other matter pertaining to articles or the filing thereof;
2. requiring the payment of fees for any matter that the Director or the Commission is required or authorized to do under this Act, and prescribing the amounts thereof;
3. prescribing forms for use under this Act and providing for the use thereof;
4. prescribing the form and content of any notices or documents required to be filed under this Act;
5. designating officers of the Ministry for the purposes of endorsing certificates, issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
6. prescribing the form and content of proxies and information circulars required by Part VIII;

7. prescribing requirements with respect to applications to the Director or the Commission for exemptions permitted by this Act and the practice and procedure thereon;
8. prohibiting the use of any words or expressions in a corporate name;
9. defining any word or expression used in clause 9 (1) (b);
10. prescribing requirements for the purposes of clause 9 (1) (c);
11. prescribing conditions for the purposes of subsection 9 (2);
12. prescribing the documents relating to names that shall be filed with the Director under subsection 9 (3);
13. respecting the name of a corporation under subsection 10 (2);
14. prescribing the punctuation marks and other marks that may form part of a corporate name under subsection 10 (3);
15. respecting the content of a special language provision under subsection 10 (4);
16. prescribing the form of the statutory declarations under subsection 52 (1) and subsection 146 (1);
17. prescribing the form and content of financial statements and interim financial statements required under this Act;
18. prescribing standards to be used by an auditor in making an examination of financial statements required under this Act and the manner in which the auditor shall report thereon;
19. prescribing exceptions under section 176;
20. prescribing the manner in which notice may be sent under subsection 189 (3);
21. prescribing the requirements with respect to applications by the Director authorized under subsection 247 (1).

22. prescribing Acts of Canada or a province or ordinances of a territory for purposes of sections 29, 42, 45 and 56 and prescribing the notice required under subsection 45 (1);
23. prescribing the manner in which the directors of corporations may determine that restricted shares are owned contrary to restrictions under subsection 45 (1);
24. prescribing the manner in which funds may be invested under subsection 45 (5);
25. prescribing,
 - i. the disclosure required of any restrictions on the issue, transfer or ownership of shares of corporations in documents issued or published by such corporations,
 - ii. the duties and powers of the directors of corporations to refuse to issue or register transfers of shares in accordance with the articles,
 - iii. the limitations on voting rights of any shares held contrary to the articles, and
 - iv. the powers of the directors of corporations to require disclosure of beneficial ownership of shares and the rights of corporations and their directors, employees or agents to rely on such disclosure and the effects of such reliance;
26. prescribing the circumstances and conditions under which the Director may exercise his power under subsection 148 (2). R.S.O. 1980, c. 54, s. 263, *amended*.

Where
articles
to be sent
to Director

272.—(1) Where this Act requires that articles relating to a corporation be sent to the Director, unless otherwise specifically provided,

- (a) two duplicate originals of the articles shall be signed by a director or an officer of the corporation or, in the case of articles of incorporation, by an incorporator; and
- (b) upon receiving duplicate originals of any articles in the prescribed form that have been executed in accordance with this Act, any other required documents and the prescribed fees, the Director shall, subject to the discretion of the Director as provided in subsection 179 (4) and subsection 240 (6), and, subject to subsection (2),

- (i) endorse on each duplicate original a certificate, setting out the day, month and year of endorsement and the corporation number,
- (ii) file a copy of the articles with the endorsement of the certificate thereon,
- (iii) send to the corporation or its representative one duplicate original of the articles with the endorsement of the certificate thereon, and
- (iv) publish in *The Ontario Gazette*, in accordance with section 268, notice of the endorsement of the certificate.

(2) A certificate referred to in subsection (1) shall be dated as of the day the Director receives the duplicate originals of any articles together with all other required documents executed in accordance with this Act and the prescribed fee, or as of any later date acceptable to the Director and specified by the person who submitted the articles or by the court. Date on certificate

(3) Articles endorsed with a certificate under subsection (1), are effective on the date shown in the certificate notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the certificate and filing by him is taken at a later date. *New.* Effective date of articles

273.—(1) Where a certificate endorsed by the Director contains an error or where a certificate is endorsed by the Director on articles or any other documents that contain an error, the corporation and its directors and shareholders shall, upon the request of the Director and after being given an opportunity to be heard, surrender the certificate and related articles or documents to the Director and pass such resolutions and take such other steps as the Director may reasonably require, and the Director shall then endorse a corrected certificate. Where error in respect of certificate

(2) A corrected certificate endorsed under subsection (1) may bear the date of the certificate it replaces. Date on certificate

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette* in accordance with section 268. Material amendment

(4) A decision of the Director under subsection (1) may be appealed to the Divisional Court which may order the Director to change his decision and make such further order as it thinks fit. *New.* Appeal

Records

274.—(1) Records required by this Act to be prepared and maintained by the Director or Commission may be in bound or loose-leaf form or in photographic film form, or may be entered or recorded by any system of mechanical or electronic data processing or by any other information storage device that is capable of reproducing any required information in an accurate and intelligible form within a reasonable time.

Admission as evidence

(2) When records maintained by the Director or the Commission are prepared and maintained other than in written form,

(a) the Director or the Commission shall furnish any copy required to be furnished under subsection 269 (2) in intelligible written form; and

(b) a report reproduced from those records, if it is certified by the Director or the Commission or a member thereof, as the case may be, is, without proof of the office or signature thereof, admissible in evidence to the same extent as the original written records would have been.

Copy in lieu of document

(3) The Director or Commission, as the case may be, is not required to produce any document where a copy of the document is furnished in compliance with clause (2) (a). *New.*

Saving provision

275.—(1) Any provision in articles, by-laws or any special resolution of a corporation that was valid immediately before this Act comes into force and that is not in conformity with this Act continues to be valid and in effect for a period of one year after the date of the coming into force of this section, but any amendment to any such provision shall be made in accordance with this Act.

Deemed amendment

(2) Any provision to which subsection (1) applies that has not been amended in accordance with this Act within the one year period shall be deemed upon the expiry of such period to be amended to the extent necessary to bring the terms of the provision into conformity with this Act.

Amendments

(3) A corporation may, by articles of amendment, change the express terms of any provision in its articles to which subsection (1) applies to conform to the terms of the provision as deemed to be amended by subsection (2).

Idem

(4) A corporation shall not restate its articles under section 172 unless the articles of the corporation are in conformity with this Act and, where the articles have been deemed to be amended under subsection (2), the corporation has amended the express terms of the provisions in its articles in accordance with subsection (3).

(5) A shareholder is not entitled to dissent under section 184 in respect of any amendment made for the purpose only of bringing the provisions of articles into conformity with this Act. *New.* Where s. 184 does not apply

276. The Minister may appoint a Director to carry out the duties and exercise the powers of the Director under this Act. *New.* Appointment of Director

277. The *Business Corporations Act*, being chapter 54 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

278. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

279. The short title of this Act is the *Business Corporations Act, 1982.* Short title

An Act to revise the
Business Corporations Act

1st Reading

March 9th, 1982

2nd Reading

March 9th, 1982

3rd Reading

June 3rd, 1982

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

20W

356

BILL 7

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to incorporate The Toronto Futures Exchange

THE HON. R. G. ELGIE
Minister of Consumer and Commercial Relations



EXPLANATORY NOTE

The purpose of the Bill is to create a commodity futures exchange operated by a corporation without share capital to be known as The Toronto Futures Exchange. The statutory provisions that govern the establishment and operation of The Toronto Futures Exchange are similar to the provisions of the *Toronto Stock Exchange Act, 1982* (Bill 6). The Board of Governors of The Toronto Futures Exchange will consist of eleven members, of whom five will be elected by members of the Futures Exchange, three will be elected by The Toronto Stock Exchange, two will be public directors and one will be the President. The Board of Governors has authority to pass by-laws, subject to the provisions of the *Corporations Act*, and the Board has power to discipline its members or to delegate its disciplinary power to a committee established by the Board. The Bill provides that the Futures Exchange may hold property without the limitations contained in the *Corporations Act* and that meetings of the Board and its committees may be held by conference telephone, electronic or other communication facilities. The Bill also provides that the Futures Exchange will be subject to the oversight of the Ontario Securities Commission and the provisions of the *Commodity Futures Act*.

BILL 7

1982

An Act to incorporate The Toronto Futures Exchange

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “associate”, “director”, “issuer” and “senior officer” have the same meaning as in the *Securities Act*; R.S.O. 1980,
c. 466
- (b) “board of directors” means the board of directors of The Toronto Futures Exchange;
- (c) “commodity futures contract” and “commodity futures option” have the same meaning as in the *Commodity Futures Act*; R.S.O. 1980,
c. 78
- (d) “Corporation” means The Toronto Futures Exchange;
- (e) “exchange” means the exchange operated by the Corporation;
- (f) “futures member” means a member of The Toronto Futures Exchange who conducts the business of trading commodity futures contracts and commodity futures options and who is admitted to membership in accordance with the by-laws;
- (g) “insider” means,
 - (i) every director or senior officer of an issuer,
 - (ii) every director or senior officer of a company that is itself an insider or subsidiary of an issuer,
 - (iii) any person or company who beneficially owns, directly or indirectly, voting securities of an issuer or who exercises control or direction over

voting securities of an issuer or a combination of both carrying more than 10 per cent of the voting rights attached to all voting securities of the issuer for the time being outstanding other than voting securities held by the person or company as underwriter in the course of a distribution, and

(iv) an issuer where it has purchased, redeemed or otherwise acquired any of its securities, for so long as it holds any of its securities;

(h) "public director" means a member of the board of directors elected under subsection 8 (3);

(i) "sponsor member" means The Toronto Stock Exchange, and any other stock exchange, securities exchange, commodities exchange, association of securities or commodities dealers or similar organization that is admitted to membership in accordance with the by-laws.

Corporation
established

2. There is hereby established a corporation without share capital under the name of "The Toronto Futures Exchange".

Head office

3. The head office of the Corporation shall be situate in The Municipality of Metropolitan Toronto.

Object

4.—(1) The object of the Corporation is to operate an exchange in Ontario for trading in commodity futures contracts and commodity futures options by the members of the Corporation and other persons authorized under subsection (2).

Trading by
non-members

(2) The board of directors may authorize persons other than members to trade on the exchange, subject to such terms and conditions as are imposed by the board of directors.

Compliance
with
R.S.O. 1980,
c. 78

(3) The Corporation shall operate the exchange in a manner that does not contravene the requirements of the *Commodity Futures Act*, the regulations made thereunder, and any decision of the Ontario Securities Commission made under that Act and regulations, and the Corporation may impose any additional or higher requirement within its jurisdiction.

Non-profit

5. The Corporation shall be carried on without the purpose of gain for its members and any profits or other accretions to the Corporation shall be used in promoting its object.

Membership

6. The membership of the Corporation shall be composed of futures members, sponsor members and such other classes of membership as the by-laws provide.

7.—(1) The affairs of the Corporation shall be managed by a board of directors, who may be referred to as governors, consisting of, Board of directors

- (a) the President of the Corporation;
- (b) two public directors; and
- (c) eight other directors elected by the members in accordance with this Act and the by-laws.

(2) Where a vacancy occurs on the board of directors, the remaining directors may exercise all the powers of the board so long as a quorum of the board of directors remains in office. Vacancies

8.—(1) The directors, except the President and the public directors, shall be elected by the members annually in such manner as the by-laws provide except that three directors shall be elected by the sponsor members and, subject to subsection (2), five directors shall be elected by the futures members of the Corporation. Election of directors

(2) Where the class of futures members includes a group of one or more futures members who are not members of The Toronto Stock Exchange or affiliates, associates or insiders of a member of The Toronto Stock Exchange, one of the five directors elected by futures members shall be elected by a majority of the votes cast by the futures members that form the group. Idem

(3) The public directors shall be elected annually by the board of directors at the first meeting of the board following the annual meeting of the Corporation, to hold office until the next annual meeting of the Corporation, and any vacancy occurring in the office of the public directors may be filled by the election of another person for the remainder of the term by the directors then in office. Election of public directors

(4) A person is not eligible to be a public director if the person is, Eligibility of public directors

- (a) a futures member of the Corporation;
- (b) an associate or insider of a futures member of the Corporation;
- (c) a member of The Toronto Stock Exchange; or
- (d) an associate or insider of a member of The Toronto Stock Exchange.

Idem	(5) No person shall be elected as a public director unless the person's nomination for election is approved by the Lieutenant Governor in Council on the joint recommendation of the President of the Corporation and the chairman of the Board of Directors of The Toronto Stock Exchange.
First board of directors	(6) Notwithstanding subsection 7 (1) or subsections (1) to (5) of this section, the first board of directors shall consist of five persons appointed by the Lieutenant Governor in Council on the recommendation of the Board of Directors of The Toronto Stock Exchange who shall hold office until the board of directors is reconstituted in accordance with this Act.
First meeting	(7) The first board of directors shall call a meeting of the members within three months of the coming into force of this Act for the purpose of reconstituting the board of directors in accordance with this Act.
Election of chairman, vice-chairman	9.— (1) The chairman and every vice-chairman of the board of directors shall be elected by the board of directors.
Appointment of President	(2) The President of the Corporation shall be appointed by the board of directors and shall be a person nominated by the Board of Directors of The Toronto Stock Exchange.
Eligibility for appointment	(3) A person is not eligible to be the President if the person is, <ul style="list-style-type: none"> (a) a futures member of the Corporation; (b) an associate or insider of a futures member of the Corporation; (c) a member of The Toronto Stock Exchange; or (d) an associate or insider of a member of The Toronto Stock Exchange.
Removal of President	(4) The President may be removed from office by the board of directors upon a vote of two-thirds of the directors then in office.
Officers	(5) Each officer of the Corporation, except the chairman and any vice-chairman of the board of directors, the President, the secretary and the treasurer, shall be appointed by the President with the approval of the board of directors.
Idem	(6) No officer of the Corporation, except the chairman and any vice-chairman of the board of directors, the President, the secretary and the treasurer, shall be a director or member of the Corporation.

10. The President shall be the chief executive officer of the Corporation. Duty of President

11.—(1) For the purposes of the object of the Corporation, the board of directors has the power to govern and regulate, Power of board

- (a) the exchange;
- (b) the partnership and corporate arrangements of the members and other persons authorized to trade on the exchange, including requirements as to financial condition; and
- (c) the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business,

and, in the exercise of such powers and in addition to their power to pass by-laws under Part III of the *Corporations Act*, the board of directors may pass such by-laws and make such rules and regulations and issue such orders and directions pursuant to such by-laws as it considers necessary for the purpose, including the imposition of penalties and forfeitures for the breach of any such by-law, rule, regulation, direction or order. R.S.O. 1980, c. 95

(2) If the board of directors passes a by-law that provides for the making of an order restricting or suspending the privileges of a member before a hearing of the matter is held, the by-law shall provide that any such restriction or suspension shall be imposed only where the board of directors considers it necessary for the protection of the public interest and that the restriction or suspension shall expire fifteen days after the date on which the order was made unless a hearing is held within that period of time to confirm or set aside the order. Immediate restriction or suspension

(3) The board of directors may pass by-laws delegating to one or more persons or committees the power of the board of directors, Delegation of powers

- (a) to consider, hold hearings and make determinations regarding applications for any acceptance, approval, registration or authorization and to impose terms and conditions on any such acceptance, approval, registration or authorization;
- (b) to investigate and examine the business conduct of members and other persons authorized to trade on the exchange and of their employees and agents and other persons associated with them in the conduct of business; and

- (c) to hold hearings, make determinations and impose suspensions or other discipline on members and persons referred to in clause (b) in matters related to business conduct,

subject to such limitations, restrictions, conditions and requirements as the board of directors may set out in the by-laws.

Meetings by
telephone, etc.

12. A meeting of the board of directors or of any committee established by the board of directors may be held by means of telephone, electronic or other communication facilities if,

- (a) the telephone, electronic or other communication facilities permit all persons participating in the meeting to communicate with each other simultaneously and instantaneously; and
- (b) all of the directors or committee members, as the case may be, participating in the meeting consent,

and a person participating in such a meeting by such means shall be deemed to be present at the meeting.

Power to
hold land

13. The Corporation may acquire by purchase, lease or otherwise, and may hold for any period of time any land or interest therein whether or not such land or interest is necessary for its actual use or occupation.

Application of
R.S.O. 1980,
c. 95

14. The *Corporations Act*, except sections 131, 276 and 312, applies to the Corporation, except,

- (a) to the extent that the provisions thereof are inconsistent with this Act;
- (b) that a public director may not be removed from office under section 67 of that Act; and
- (c) that the by-laws of the Corporation may,
 - (i) fix the class or classes of persons who may be appointed by a proxy to attend and act at meetings as nominees of futures members provided that one such class shall be futures members,
 - (ii) provide for and regulate the admission of members, including the requiring of approval by the directors or members, or both, at meetings or individually, and the manner in which such approval is to be given, and

- (iii) fix the quorum for meetings of the board at four or any larger number of directors as specified in the by-laws.

15. Nothing in this Act shall be construed to derogate from the powers of the Ontario Securities Commission under the *Commodity Futures Act* or any other Act.

Powers of
Ontario
Securities
Commission
R.S.O. 1980,
c. 78

16. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

17. The short title of this Act is the *Toronto Futures Exchange Act, 1982*.

Short title

BILL 7

An Act to incorporate
The Toronto Futures Exchange

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. R. G. ELGIE
Minister of Consumer and
Commercial Relations

(Government Bill)

20W
56
BILL 8

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Fuel Tax Act, 1981

THE HON. G. L. ASHE
Minister of Revenue



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill brings into force, from February 1, 1982, the provisions of the *Fuel Tax Act, 1981*, that empower the Lieutenant Governor in Council to establish a program of relief to small, independent businessmen and farmers' co-operatives for additional tankage costs arising from the colouration of fuel.

BILL 8

1982

An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 33 of the *Fuel Tax Act, 1981*, being chapter 59, is repealed and the following substituted therefor: s. 33,
re-enacted

33.—(1) This Act, except clause 30 (1) (*h*) and section 31, comes into force on the 1st day of September, 1982. Commence-
ment

(2) Clause 30 (1) (*h*) and section 31 shall be deemed to have come into force on the 1st day of February, 1982. Idem

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Fuel Tax Amendment Act, 1982*. Short title

BILL 8

An Act to amend the Fuel Tax Act, 1981

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. G. L. ASHE
Minister of Revenue

(Government Bill)

20N
356

Government
Publications

BILL 8

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Fuel Tax Act, 1981

THE HON. G. L. ASHE
Minister of Revenue



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO



An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 33 of the *Fuel Tax Act, 1981*, being chapter 59, is repealed s. 33,
re-enacted and the following substituted therefor:

33.—(1) This Act, except clause 30 (1) (*h*) and section 31, Commence-
ment comes into force on the 1st day of September, 1982.

(2) Clause 30 (1) (*h*) and section 31 shall be deemed to have Idem come into force on the 1st day of February, 1982.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Fuel Tax Amendment Act, 1982*. Short title

BILL 8

An Act to amend the Fuel Tax Act, 1981

1st Reading

March 11th, 1982

2nd Reading

April 6th, 1982

3rd Reading

April 6th, 1982

THE HON. G. L. ASHE
Minister of Revenue

20W

B56

Government
Publications

BILL 9

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

1
2

An Act to amend the District Municipality of Muskoka Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The section proposed to be added empowers the Lieutenant Governor in Council, on the recommendation of the Minister pursuant to an application by an area municipality, to alter the status of the municipality to that of a township, village, town or city municipality and to provide for other matters consequent on the alteration in status.

SECTION 2.—Subsection 1. The amendment re-organizes the nine existing wards in the Township of Muskoka Lakes into three new wards for the purpose of the regular election to be held in 1982 and thereafter.

BILL 9

1982

An Act to amend the District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister of Municipal Affairs and Housing pursuant to an application by an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

- 2.—(1) Subsection 3 (6) of the said Act is repealed and the following substituted therefor:

(6) For the regular election to be held in 1982 and for all elections thereafter, the area municipality of the Township of Muskoka Lakes is divided into the following wards:

1. Ward A—which shall comprise that part of the geographic Township of Wood now within the Township of Muskoka Lakes, together with that part of the geo-

graphic Township of Medora that was within the Town of Bala on the 31st day of December, 1970, being more particularly described as follows:

COMMENCING at the southwest angle of the geographic Township of Wood;

THENCE northerly along the westerly limit of the Township of Wood, being the easterly limit of the Township of Baxter and the Township of Gibson, to the northwest angle of the Township of Wood;

THENCE easterly along the centre of the Muskoka River, being the geographic boundary between the Township of Medora and the Township of Wood to the point where the said boundary is intersected by the line between lots 6 and 7 in Concession D of the Township of Medora produced southerly to intersect the said boundary;

THENCE northerly along the said boundary produced and the boundary between lots 6 and 7 in Concession D of the Township of Medora to the northwest angle of Lot 7 in Concession D of the Township of Medora;

THENCE easterly along the boundary between Concession D and Concession E of the Township of Medora to the northeast angle of Lot 12 in Concession D of the Township of Medora;

THENCE southerly along the easterly boundary of Lot 12 in Concession D of the Township of Medora and the said easterly boundary produced to the centre line of the road allowance between Concession C and Concession D of the said Township;

THENCE easterly along the centre line of the road allowance between Concession C and Concession D of the Township of Medora to the intersection of the said centre line with the production northerly of the easterly boundary of Lot 14 in Concession C;

THENCE southerly along the production northerly and the easterly boundary of Lot 14 in Concession C of the Township of Medora to the southeast angle of Lot 14 in Concession C of the Township of Medora;

THENCE easterly along the boundary between Concession B and Concession C of the Township of Medora to the high water mark of Lake Muskoka;

THENCE continuing on the production easterly of the boundary between Concession B and Concession C to a point in Lake Muskoka half way between the mainland high water mark and the westerly high water mark of Acton Island;

THENCE southerly through Lake Muskoka along the line midway between the shore of Lake Muskoka and Acton Island and continuing midway between the shore of Bala Park Island and Acton Island to the point of intersection with the geographic boundary between the Township of Medora and the Township of Wood;

THENCE in a general northeasterly direction through Lake Muskoka following the geographic boundary between the Township of Medora and the Township of Wood to its intersection with the geographic boundary between the Township of Wood and the Township of Monck;

THENCE southeasterly through Lake Muskoka along the boundary between the Township of Wood and the Township of Monck to its intersection with the geographic boundary between the Township of Wood and the Township of Muskoka;

THENCE southwesterly, northwesterly and southwest-erly following the boundary between the Township of Muskoka and the Township of Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly and southerly along the division line between the Township of Muskoka and the Township of Wood to the production northerly of the easterly limit of Lot 9 in Concession VI of the Township of Wood;

THENCE southerly to and along the easterly limit of Lot 9 in concessions VI to XX, inclusive, and its production to its intersection with the southerly boundary of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood to its intersection with the westerly limit of the said Township, being the point of commencement.

2. Ward B—which shall comprise the geographic Township of Cardwell, the geographic Township of

Watt and that part of the geographic Township of Monck now within the Township of Muskoka Lakes, being more particularly described as follows:

FIRSTLY, all of the geographic Township of Cardwell;

SECONDLY, all of the geographic Township of Watt;

THIRDLY, commencing at the northwest angle of the geographic Township of Monck;

THENCE easterly along the northerly boundary to its intersection with the production northerly of the east limit of Lot 5 in Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 to the intersection of the easterly limit of Lot 5 in Concession V produced southerly with the centre line of the original allowance for road between Concession IV and Concession V;

THENCE westerly along the said centre line of the original allowance for road between Concession IV and Concession V to its intersection with the original high water mark of Lake Muskoka;

THENCE north 85° west through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between Lot 15 and Lot 16 in Concession VI;

THENCE south 10° west through Lake Muskoka a distance of 43 chains;

THENCE north 80° west through Lake Muskoka between Pine Island and Birch Island, 136 chains;

THENCE south 10° west through Lake Muskoka to its intersection with the boundary between the Township of Monck and the Township of Wood;

THENCE northwesterly along the boundary between the Township of Monck and the Township of Wood and the boundary between the Township of Monck and the Township of Medora to its intersection with the westerly boundary of the Township of Monck;

THENCE northerly along the westerly boundary to the point of commencement.

3. Ward C—which shall comprise the geographic Township of Medora, save and except that portion of the said Township that was within the limits of the Town of Bala on the 31st day of December, 1970, being more particularly described as follows:

COMMENCING at the northwest angle of the Township of Medora;

THENCE southerly along the westerly limit of the said Township to the southwesterly angle of the Township of Medora;

THENCE easterly along the centre of the Muskoka River, being the geographic boundary between the Township of Medora and the Township of Wood to the point where the said boundary is intersected by the line between Lot 6 and Lot 7 in Concession D of the Township of Medora produced southerly to intersect the said boundary;

THENCE northerly along the said boundary produced and the boundary between Lot 6 and Lot 7 in Concession D of the Township of Medora to the northwest angle of Lot 7 in Concession D of the Township of Medora;

THENCE easterly along the boundary between Concession D and Concession E of the Township of Medora to the northeast angle of Lot 12 in Concession D of the Township of Medora;

THENCE southerly along the easterly boundary of Lot 12 in Concession D of the Township of Medora and the said easterly boundary produced to the centre line of the road allowance between Concession C and Concession D of the said Township;

THENCE easterly along the centre line of the road allowance between Concession C and Concession D of the Township of Medora to the intersection of the said centre line with the production northerly of the easterly boundary of Lot 14 in Concession C;

THENCE southerly along the production northerly and the easterly boundary of Lot 14 in Concession C of the Township of Medora to the southeast angle of Lot 14 in Concession C of the Township of Medora;

THENCE easterly along the boundary between Concession B and Concession C of the Township of Medora to the high water mark of Lake Muskoka;

THENCE continuing on the production easterly of the boundary between Concession B and Concession C to a point in Lake Muskoka, half way between the mainland high water mark and the westerly high water mark of Acton Island;

THENCE southerly through Lake Muskoka along the line midway between the shore of Lake Muskoka and Acton Island and continuing midway between the shore of Bala Park Island and Acton Island to the point of intersection with the geographic boundary between the Township of Medora and the Township of Wood;

THENCE in a general northeasterly direction through Lake Muskoka following the geographic boundary between the Township of Medora and the Township of Wood and the boundary between the Township of Medora and the Township of Monck to its intersection with the north shore of Lake Muskoka;

THENCE continuing northerly along the easterly boundary of the Township of Medora to a point on the shore of Lake Rosseau at its intersection with the easterly boundary of the Township of Medora;

THENCE in a general northerly direction through Lake Rosseau following the eastern limit of the Township of Medora to its intersection with the northerly limit of the Township of Medora;

THENCE westerly along the northerly limit of the Township of Medora to the point of commencement.

s. 3 (7),
re-enacted

- (2) Subsection 3 (7) of the said Act is repealed and the following substituted therefor:

Representation
on area
councils

(7) On or after the 1st day of December, 1982, the council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and the following number of other members of the council:

1. The Town of Bracebridge—eight members as follows:
 - i. The three members elected under clause 6 (b),
 - ii. Five members elected as members of the council of the area municipality as follows:

Subsection 2. See explanatory note for section 3 of the Bill.

Bracebridge Ward	One member
Draper Ward	One member
Macaulay Ward	One member
Monck South Ward and Muskoka North Ward	One member
Oakley Ward	One member

2. The Township of Georgian Bay—five members as follows:

- i. The two members elected under clause 6 (*c*),
- ii. Three members elected as members of the council of the area municipality as follows:

Baxter Ward	One member
Freeman Ward	One member
Gibson Ward	One member

3. The Town of Gravenhurst—eight members as follows:

- i. The three members elected under clause 6 (*d*),
- ii. Five members elected as members of the council of the area municipality as follows:

Gravenhurst Ward	Two members
Morrison Ward	One member
Muskoka South Ward	One member
Ryde Ward	One member

4. The Town of Huntsville—eight members as follows:

- i. The three members elected under clause 6 (*e*),
- ii. Five members elected as members of the council of the area municipality as follows:

Brunel Ward	One member
Chaffey Ward	One member

Huntsville Ward	One member
Port Sydney Ward, Stephenson Ward and Stisted Ward	Two members

5. The Township of Lake of Bays—six members as follows:

- i. The two members elected under clause 6 (f),
- ii. Four members elected as members of the council of the area municipality as follows:

Franklin Ward	One member
McLean Ward	One member
Ridout Ward	One member
Sinclair Ward	One member

6. The Township of Muskoka Lakes—nine members as follows:

- i. The three members elected under clause 6 (g),
- ii. Six members elected as members of the council of the area municipality as follows:

Ward A	Two members
Ward B	Two members
Ward C	Two members

s. 3,
amended

(3) Section 3 of the said Act is amended by adding thereto the following subsections:

Alteration
of wards,
etc., by
O.M.B.

R.S.O. 1980,
c. 302

(8) Notwithstanding the provisions of this or any other Act, upon the application of an area municipality authorized by a by-law of the council thereof, or upon the petition of electors in accordance with the provisions of section 13 of the *Municipal Act*, the Municipal Board may, by order,

- (a) divide or redivide the area municipality into wards, and shall designate the name or number each ward shall bear and shall declare the date when the division or redivision shall take effect;

Subsection 3. The added subsections provide for the alteration of ward boundaries of the area municipalities by the Municipal Board, and for matters consequent thereon; the provisions are similar to those now found in the various regional Acts.

SECTION 3. At present, members of the District Council are elected from among the members of the councils of the area municipalities. The proposed amendment provides for the direct election of members of the District Council. Persons elected to the District Council will also be elected as members of the council of the area municipality for the area from which they were elected.

- (b) alter or dissolve any or all of the wards in the area municipality and shall declare the date when such alterations or dissolutions shall take effect; or
- (c) vary the composition of the council of the area municipality,

provided that,

- (d) no order made under this section shall alter the total number of members who represent the area municipality on the District Council as provided for in this Act; and
- (e) the mayor of the area municipality shall continue to be elected by a general vote of the electors of the area municipality, and shall be the head of council of the area municipality, and shall be a member of the District Council, as provided for in this Act.

(9) Notwithstanding section 6, the Lieutenant Governor in Council, upon the recommendation of the Minister, may by order authorize such method of selecting the members who represent the area municipality on the District Council as is considered advisable following an order of the Municipal Board under subsection (8). Order of L.G. in C.

(10) Where the Minister is inquiring into the structure, organization and methods of operation of one or more area municipalities or the District Corporation, he may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications and any petition or petitions made under subsection (8) should be deferred until the inquiry has been completed and considered, and thereupon all proceedings in any such application are stayed until he gives notice to the Municipal Board that they may be continued. Stay of proceedings pending completion of inquiry

3. Section 6 of the said Act is repealed and the following substituted therefor: s. 6, re-enacted

6. On and after the 1st day of December, 1982, the District Council shall consist of twenty-three members composed of a chairman and, Composition of District Council

- (a) the mayor of each area municipality;
- (b) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Town of Bracebridge by general vote;

- (c) two members elected as members of the council of the area municipality and of the District Council from the area municipality of the Township of Georgian Bay as follows,

(i) Baxter Ward One member

(ii) Freeman Ward and
Gibson Ward One member;

- (d) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Town of Gravenhurst by general vote;

- (e) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Town of Huntsville by general vote;

- (f) two members elected as members of the council of the area municipality and of the District Council from the area municipality of the Township of Lake of Bays as follows,

(i) Franklin Ward and
Sinclair Ward One member

(ii) McLean Ward and
Ridout Ward One member;

and

- (g) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Township of Muskoka Lakes as follows,

(i) Ward A One member

(ii) Ward B One member

(iii) Ward C One member.

Existing
wards
continued

- 4.—(1) The wards in the area municipality of the Township of Muskoka Lakes, as set out in subsection 3 (6) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as that subsection read immediately prior to the coming into force of subsection 2 (1) of this Act, are continued until the 30th day of November, 1982.

SECTION 4. This section continues the present wards in the Township of Muskoka Lakes and it also continues the composition of the District and area municipality councils and the method of electing members thereto until the amendments set out in sections 2 and 3 of the Bill come into effect in 1982.

The deadline for dividing the Township of Muskoka Lakes into polling subdivisions is extended, for the election year of 1982, from the 1st day of April to the 1st day of July.

SECTION 5. The proposed subsection (3a) makes certain provisions of the *Municipal Act* applicable to the District Council. These provisions set out the grounds for disqualification of members of council, the situations giving rise to a vacancy in the office of a member of council, the requirement that a council declare a seat vacant when a vacancy occurs, the procedure for bringing a court action to have a seat declared vacant, and the requirement that a member take his declaration of office within a prescribed time period.

The proposed subsection (3b) sets out the procedure to be followed by a member wishing to resign.

The proposed subsection (3c) provides that where the seat of a member on the District Council becomes vacant, his seat on the council of the area municipality that he represents automatically becomes vacant, and vice versa. This proposed subsection would apply, for example, where a member missed meetings of the District Council for three successive months but was regularly attending meetings of the local council. Without this proposed subsection, the seat of the member on the District Council would become vacant but his seat on the council of the area municipality would not.

The proposed subsection (3d) provides that when the seat of a member is declared vacant by the District Council or by the council of the area municipality that he represents, the council declaring the vacancy shall immediately inform the other council of its declaration.

The proposed subsection (3e) provides that the seat of a member on the District Council or on the council of an area municipality shall be declared vacant if that council is informed that the other council has declared his seat on such other council to be vacant.

- (2) Notwithstanding section 17 of the *Municipal Elections Act*, the clerk of the area municipality of the Township of Muskoka Lakes shall divide the municipality into polling subdivisions and shall not later than the 1st day of July, 1982, inform the assessment commissioner of the boundaries of each subdivision.

Polling
subdivisions
R.S.O. 1980,
c. 308

- (3) The composition of the council of each area municipality and the method of electing members to each council, as set out in subsection 3 (7) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as that subsection read immediately prior to the coming into force of subsection 2 (2) of this Act, are continued until the 30th day of November, 1982.

Composition
of council
of area
municipi-
alities
continued

- (4) The composition of the District Council and the method of electing members to the District Council, as set out in section 6 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as that section read immediately prior to the coming into force of section 3 of this Act, are continued until the 30th day of November, 1982.

Composition
of District
Council
continued

- 5.—(1) Section 10 of the said Act is amended by adding thereto the following subsections:

s. 10,
amended

- (3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the District Council.

Application of
R.S.O. 1980,
c. 302

- (3b) A member of the District Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Resignation
from District
Council

- (3c) If not already vacant by virtue of any general or special Act,

Where
vacancy in
District
Council or
area
municipality
council

- (a) the seat of a member of the District Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the District Council is declared vacant by the District Council.

Declaration
of vacancy

(3*d*) Where the District Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3*e*), and subsection (3*c*) applies, the District Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3*e*) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3*d*) the District Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 10 (5),
repealed

(2) Subsection 10 (5) of the said Act is repealed.

s. 20 (a),
re-enacted

6. Clause 20 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the District Corporation at such place of deposit as may be approved by the District Council.

s. 38,
amended

7. Section 38 of the said Act is amended by adding thereto the following subsections:

Establish-
ment of
bus lanes,
etc.

(2) The District Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law, and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpretation

(3) For the purposes of subsection (2),

(a) "any other municipality" includes a metropolitan and regional municipality;

(b) "public transit motor vehicle" means any motor vehicle operated by, for or on behalf of the District Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 55,
repealed

8. Section 55 of the said Act is repealed.

s. 73 (2),
re-enacted

9. Subsection 73 (2) of the said Act is repealed and the following substituted therefor:

SECTION 6. Clause 20 (a) sets out one of the duties of the treasurer of the District Corporation and is set out below as it now reads showing underlined the words proposed to be deleted by the re-enactment:

20. *Subject to subsection 22 (3), the treasurer shall,*

(a) open an account or accounts in the name of the District Corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved by the District Council;

SECTION 7. The subsection to be added confers authority on the District Council to designate lanes on district roads for the use of public transit motor vehicles or any class thereof or by the other classes of motor vehicles set out in the subsection and is similar to the authority conferred on regional councils in respect of regional roads.

SECTION 8. The section proposed to be repealed authorizes the District Council to grant aid to public hospitals. The District Council may grant aid to hospitals under section 113 of the *Municipal Act* and accordingly the specific authority to do so is not required in this Act.

SECTION 9. The effect of the proposed re-enactment of subsection 73 (2) is to delete from the end of the subsection as it now reads the words "and for such reserves within such limits as to type and amount as the Ministry may approve". Authority to provide in the estimates for the establishment of a reserve fund is found in section 81 of the Act and the words to be deleted are accordingly redundant.

SECTION 10.—Subsection 1. The amendment will decrease from ten years to five years the minimum period within which instalment debentures issued by the District Corporation may mature.

Subsection 2. The subsection proposed to be added permits a portion of any premium received on debentures issued by the District Corporation payable in a foreign currency to be set aside in a reserve fund to pay any premium on annual payments of principal and interest on the debentures.

SECTION 11. The section of the *Municipal Act* made applicable to the District Corporation authorizes the issue of extendible term debentures and retractable term debentures.

SECTION 12. Sections 114, 115 and 122 are added as sections of the *Municipal Act* that apply to the District Corporation. Section 114 provides for offering awards and establishing competitions for awards; section 115 authorizes the provision of fellowships and scholarships, while section 122 authorizes agreements with the Crown respecting the use of the property or of the servants or officers of a municipality or the Crown (in right of Ontario) or the joint acquisition of property by the municipality and the Crown.

(2) In preparing the estimates, the District Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

10.—(1) Clause 88 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 88 (7) (a),
amended

(2) Section 88 of the said Act is amended by adding thereto the following subsection:

s. 88,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b) or (c) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

Premiums
on foreign
currency

11. The said Act is further amended by adding thereto the following section:

s. 89a,
enacted

89a. Section 143a of the *Municipal Act* applies with necessary modifications to the District Corporation.

Application of
R.S.O. 1980,
c. 302,
s. 143a

12. Subsection 108 (1) of the said Act is repealed and the following substituted therefor:

s. 108 (1),
re-enacted

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), section 190, paragraphs 3, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210 and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the District Corporation, and, for the purposes of section 253 of the *Municipal Act*, the District Corporation shall be deemed to be a local municipality.

Application of
R.S.O. 1980,
c. 302

13. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

14. The short title of this Act is the *District Municipality of Muskoka Amendment Act, 1982*.

Short title

BILL 9

An Act to amend the
District Municipality of Muskoka Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

27N

B56

Government
Publications

BILL 9

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to amend the District Municipality of Muskoka Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing





BILL 9

1982

An Act to amend the District Municipality of Muskoka Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister of Municipal Affairs and Housing pursuant to an application by an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

s. 2a,
enacted

Alteration
in status
of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

- 2.—(1) Subsection 3 (6) of the said Act is repealed and the following substituted therefor:

s. 3 (6),
re-enacted

(6) For the regular election to be held in 1982 and for all elections thereafter, the area municipality of the Township of Muskoka Lakes is divided into the following wards:

Muskoka
Lakes

1. Ward A—which shall comprise that part of the geographic Township of Wood now within the Township of Muskoka Lakes, together with that part of the geo-

graphic Township of Medora that was within the Town of Bala on the 31st day of December, 1970, being more particularly described as follows:

COMMENCING at the southwest angle of the geographic Township of Wood;

THENCE northerly along the westerly limit of the Township of Wood, being the easterly limit of the Township of Baxter and the Township of Gibson, to the northwest angle of the Township of Wood;

THENCE easterly along the centre of the Muskoka River, being the geographic boundary between the Township of Medora and the Township of Wood to the point where the said boundary is intersected by the line between lots 6 and 7 in Concession D of the Township of Medora produced southerly to intersect the said boundary;

THENCE northerly along the said boundary produced and the boundary between lots 6 and 7 in Concession D of the Township of Medora to the northwest angle of Lot 7 in Concession D of the Township of Medora;

THENCE easterly along the boundary between Concession D and Concession E of the Township of Medora to the northeast angle of Lot 12 in Concession D of the Township of Medora;

THENCE southerly along the easterly boundary of Lot 12 in Concession D of the Township of Medora and the said easterly boundary produced to the centre line of the road allowance between Concession C and Concession D of the said Township;

THENCE easterly along the centre line of the road allowance between Concession C and Concession D of the Township of Medora to the intersection of the said centre line with the production northerly of the easterly boundary of Lot 14 in Concession C;

THENCE southerly along the production northerly and the easterly boundary of Lot 14 in Concession C of the Township of Medora to the southeast angle of Lot 14 in Concession C of the Township of Medora;

THENCE easterly along the boundary between Concession B and Concession C of the Township of Medora to the high water mark of Lake Muskoka;

THENCE continuing on the production easterly of the boundary between Concession B and Concession C to a point in Lake Muskoka half way between the mainland high water mark and the westerly high water mark of Acton Island;

THENCE southerly through Lake Muskoka along the line midway between the shore of Lake Muskoka and Acton Island and continuing midway between the shore of Bala Park Island and Acton Island to the point of intersection with the geographic boundary between the Township of Medora and the Township of Wood;

THENCE in a general northeasterly direction through Lake Muskoka following the geographic boundary between the Township of Medora and the Township of Wood to its intersection with the geographic boundary between the Township of Wood and the Township of Monck;

THENCE southeasterly through Lake Muskoka along the boundary between the Township of Wood and the Township of Monck to its intersection with the geographic boundary between the Township of Wood and the Township of Muskoka;

THENCE southwesterly, northwesterly and southwest-erly following the boundary between the Township of Muskoka and the Township of Wood through Lake Muskoka to the original high water mark of Lake Muskoka;

THENCE westerly and southerly along the division line between the Township of Muskoka and the Township of Wood to the production northerly of the easterly limit of Lot 9 in Concession VI of the Township of Wood;

THENCE southerly to and along the easterly limit of Lot 9 in concessions VI to XX, inclusive, and its production to its intersection with the southerly boundary of the said Township of Wood;

THENCE westerly following the southerly boundary of the said Township of Wood to its intersection with the westerly limit of the said Township, being the point of commencement.

2. Ward B—which shall comprise the geographic Township of Cardwell, the geographic Township of

Watt and that part of the geographic Township of Monck now within the Township of Muskoka Lakes, being more particularly described as follows:

FIRSTLY, all of the geographic Township of Cardwell;

SECONDLY, all of the geographic Township of Watt;

THIRDLY, commencing at the northwest angle of the geographic Township of Monck;

THENCE easterly along the northerly boundary to its intersection with the production northerly of the east limit of Lot 5 in Concession XIII;

THENCE southerly to and along the easterly limit of Lot 5 to the intersection of the easterly limit of Lot 5 in Concession V produced southerly with the centre line of the original allowance for road between Concession IV and Concession V;

THENCE westerly along the said centre line of the original allowance for road between Concession IV and Concession V to its intersection with the original high water mark of Lake Muskoka;

THENCE north 85° west through Lake Muskoka to its intersection with the production southerly of the centre line of the original allowance for road between Lot 15 and Lot 16 in Concession VI;

THENCE south 10° west through Lake Muskoka a distance of 43 chains;

THENCE north 80° west through Lake Muskoka between Pine Island and Birch Island, 136 chains;

THENCE south 10° west through Lake Muskoka to its intersection with the boundary between the Township of Monck and the Township of Wood;

THENCE northwesterly along the boundary between the Township of Monck and the Township of Wood and the boundary between the Township of Monck and the Township of Medora to its intersection with the westerly boundary of the Township of Monck;

THENCE northerly along the westerly boundary to the point of commencement.

3. Ward C—which shall comprise the geographic Township of Medora, save and except that portion of the said Township that was within the limits of the Town of Bala on the 31st day of December, 1970, being more particularly described as follows:

COMMENCING at the northwest angle of the Township of Medora;

THENCE southerly along the westerly limit of the said Township to the southwesterly angle of the Township of Medora;

THENCE easterly along the centre of the Muskoka River, being the geographic boundary between the Township of Medora and the Township of Wood to the point where the said boundary is intersected by the line between Lot 6 and Lot 7 in Concession D of the Township of Medora produced southerly to intersect the said boundary;

THENCE northerly along the said boundary produced and the boundary between Lot 6 and Lot 7 in Concession D of the Township of Medora to the northwest angle of Lot 7 in Concession D of the Township of Medora;

THENCE easterly along the boundary between Concession D and Concession E of the Township of Medora to the northeast angle of Lot 12 in Concession D of the Township of Medora;

THENCE southerly along the easterly boundary of Lot 12 in Concession D of the Township of Medora and the said easterly boundary produced to the centre line of the road allowance between Concession C and Concession D of the said Township;

THENCE easterly along the centre line of the road allowance between Concession C and Concession D of the Township of Medora to the intersection of the said centre line with the production northerly of the easterly boundary of Lot 14 in Concession C;

THENCE southerly along the production northerly and the easterly boundary of Lot 14 in Concession C of the Township of Medora to the southeast angle of Lot 14 in Concession C of the Township of Medora;

THENCE easterly along the boundary between Concession B and Concession C of the Township of Medora to the high water mark of Lake Muskoka;

THENCE continuing on the production easterly of the boundary between Concession B and Concession C to a point in Lake Muskoka, half way between the mainland high water mark and the westerly high water mark of Acton Island;

THENCE southerly through Lake Muskoka along the line midway between the shore of Lake Muskoka and Acton Island and continuing midway between the shore of Bala Park Island and Acton Island to the point of intersection with the geographic boundary between the Township of Medora and the Township of Wood;

THENCE in a general northeasterly direction through Lake Muskoka following the geographic boundary between the Township of Medora and the Township of Wood and the boundary between the Township of Medora and the Township of Monck to its intersection with the north shore of Lake Muskoka;

THENCE continuing northerly along the easterly boundary of the Township of Medora to a point on the shore of Lake Rosseau at its intersection with the easterly boundary of the Township of Medora;

THENCE in a general northerly direction through Lake Rosseau following the eastern limit of the Township of Medora to its intersection with the northerly limit of the Township of Medora;

THENCE westerly along the northerly limit of the Township of Medora to the point of commencement.

s. 3 (7),
re-enacted

- (2) Subsection 3 (7) of the said Act is repealed and the following substituted therefor:

Repre-
sentation
on area
councils

(7) On or after the 1st day of December, 1982, the council of each area municipality shall be composed of a mayor, who shall be elected by general vote and shall be the head of the council, and the following number of other members of the council:

1. The Town of Bracebridge—eight members as follows:

- i. The three members elected under clause 6 (b),

- ii. Five members elected as members of the council of the area municipality as follows:

Bracebridge Ward	One member
Draper Ward	One member
Macaulay Ward	One member
Monck South Ward and Muskoka North Ward	One member
Oakley Ward	One member

2. The Township of Georgian Bay—five members as follows:

- i. The two members elected under clause 6 (*c*),
- ii. Three members elected as members of the council of the area municipality as follows:

Baxter Ward	One member
Freeman Ward	One member
Gibson Ward	One member

3. The Town of Gravenhurst—eight members as follows:

- i. The three members elected under clause 6 (*d*),
- ii. Five members elected as members of the council of the area municipality as follows:

Gravenhurst Ward	Two members
Morrison Ward	One member
Muskoka South Ward	One member
Ryde Ward	One member

4. The Town of Huntsville—eight members as follows:

- i. The three members elected under clause 6 (*e*),
- ii. Five members elected as members of the council of the area municipality as follows:

Brunel Ward	One member
Chaffey Ward	One member

Huntsville Ward One member

Port Sydney Ward,
Stephenson Ward and
Stisted Ward Two members

5. The Township of Lake of Bays—six members as follows:

- i. The two members elected under clause 6 (f),
- ii. Four members elected as members of the council of the area municipality as follows:

Franklin Ward One member

McLean Ward One member

Ridout Ward One member

Sinclair Ward One member

6. The Township of Muskoka Lakes—nine members as follows:

- i. The three members elected under clause 6 (g),
- ii. Six members elected as members of the council of the area municipality as follows:

Ward A Two members

Ward B Two members

Ward C Two members

s. 3,
amended

(3) Section 3 of the said Act is amended by adding thereto the following subsections:

Alteration
of wards,
etc., by
O.M.B.

R.S.O. 1980,
c. 302

(8) Notwithstanding the provisions of this or any other Act, upon the application of an area municipality authorized by a by-law of the council thereof, or upon the petition of electors in accordance with the provisions of section 13 of the *Municipal Act*, the Municipal Board may, by order,

- (a) divide or redivide the area municipality into wards, and shall designate the name or number each ward shall bear and shall declare the date when the division or redivision shall take effect;

- (b) alter or dissolve any or all of the wards in the area municipality and shall declare the date when such alterations or dissolutions shall take effect; or
- (c) vary the composition of the council of the area municipality,

provided that,

- (d) no order made under this section shall alter the total number of members who represent the area municipality on the District Council as provided for in this Act; and
- (e) the mayor of the area municipality shall continue to be elected by a general vote of the electors of the area municipality, and shall be the head of council of the area municipality, and shall be a member of the District Council, as provided for in this Act.

(9) Notwithstanding section 6, the Lieutenant Governor in Council, upon the recommendation of the Minister, may by order authorize such method of selecting the members who represent the area municipality on the District Council as is considered advisable following an order of the Municipal Board under subsection (8). Order of
L.G. in C.

(10) Where the Minister is inquiring into the structure, organization and methods of operation of one or more area municipalities or the District Corporation, he may give notice to the Municipal Board of such inquiry and that in his opinion any application or applications and any petition or petitions made under subsection (8) should be deferred until the inquiry has been completed and considered, and thereupon all proceedings in any such application are stayed until he gives notice to the Municipal Board that they may be continued. Stay of
proceedings
pending
completion
of inquiry

3. Section 6 of the said Act is repealed and the following substituted therefor: s. 6,
re-enacted

6. On and after the 1st day of December, 1982, the District Council shall consist of twenty-three members composed of a chairman and, Composition
of District
Council

- (a) the mayor of each area municipality;
- (b) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Town of Bracebridge by general vote;

- (c) two members elected as members of the council of the area municipality and of the District Council from the area municipality of the Township of Georgian Bay as follows,

(i) Baxter Ward One member

(ii) Freeman Ward and
Gibson Ward One member;

- (d) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Town of Gravenhurst by general vote;

- (e) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Town of Huntsville by general vote;

- (f) two members elected as members of the council of the area municipality and of the District Council from the area municipality of the Township of Lake of Bays as follows,

(i) Franklin Ward and
Sinclair Ward One member

(ii) McLean Ward and
Ridout Ward One member;

and

- (g) three members elected as members of the council of the area municipality and of the District Council from the area municipality of the Township of Muskoka Lakes as follows,

(i) Ward A One member

(ii) Ward B One member

(iii) Ward C One member.

Existing
wards
continued

- 4.—(1) The wards in the area municipality of the Township of Muskoka Lakes, as set out in subsection 3 (6) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as that subsection read immediately prior to the coming into force of subsection 2 (1) of this Act, are continued until the 30th day of November, 1982.

- (2) Notwithstanding section 17 of the *Municipal Elections Act*, the clerk of the area municipality of the Township of Muskoka Lakes shall divide the municipality into polling subdivisions and shall not later than the 1st day of July, 1982, inform the assessment commissioner of the boundaries of each subdivision.

Polling subdivisions
R.S.O. 1980,
c. 308

- (3) The composition of the council of each area municipality and the method of electing members to each council, as set out in subsection 3 (7) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as that subsection read immediately prior to the coming into force of subsection 2 (2) of this Act, are continued until the 30th day of November, 1982.

Composition of council of area municipalities continued

- (4) The composition of the District Council and the method of electing members to the District Council, as set out in section 6 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, as that section read immediately prior to the coming into force of section 3 of this Act, are continued until the 30th day of November, 1982.

Composition of District Council continued

- 5.—(1) Section 10 of the said Act is amended by adding thereto the following subsections:

s. 10,
amended

- (3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the District Council.

Application of R.S.O. 1980, c. 302

- (3b) A member of the District Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Resignation from District Council

- (3c) If not already vacant by virtue of any general or special Act,

Where vacancy in District Council or area municipality council

- (a) the seat of a member of the District Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and
- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the District Council is declared vacant by the District Council.

Declaration
of vacancy

(3*d*) Where the District Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3*e*), and subsection (3*c*) applies, the District Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3*e*) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3*d*) the District Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 10 (5),
repealed

(2) Subsection 10 (5) of the said Act is repealed.

s. 20 (a),
re-enacted

6. Clause 20 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the District Corporation at such place of deposit as may be approved by the District Council.

s. 38,
amended

7. Section 38 of the said Act is amended by adding thereto the following subsections:

Establish-
ment of
bus lanes,
etc.

(2) The District Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law, and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpretation

(3) For the purposes of subsection (2),

(a) "any other municipality" includes a metropolitan and regional municipality;

(b) "public transit motor vehicle" means any motor vehicle operated by, for or on behalf of the District Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 55,
repealed

8. Section 55 of the said Act is repealed.

s. 73 (2),
re-enacted

9. Subsection 73 (2) of the said Act is repealed and the following substituted therefor:

(2) In preparing the estimates, the District Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

10.—(1) Clause 88 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 88 (7) (a),
amended

(2) Section 88 of the said Act is amended by adding thereto the following subsection:

s. 88,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b) or (c) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

Premiums
on foreign
currency

11. The said Act is further amended by adding thereto the following section:

s. 89a,
enacted

89a. Section 143a of the *Municipal Act* applies with necessary modifications to the District Corporation.

Application of
R.S.O. 1980,
c. 302,
s. 143a

12. Subsection 108 (1) of the said Act is repealed and the following substituted therefor:

s. 108 (1),
re-enacted

(1) Section 5, Parts XIII, XIV, XV and XIX, sections 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), section 190, paragraphs 3, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210 and paragraph 10 of section 315 of the *Municipal Act* apply with necessary modifications to the District Corporation, and, for the purposes of section 253 of the *Municipal Act*, the District Corporation shall be deemed to be a local municipality.

Application of
R.S.O. 1980,
c. 302

13. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

14. The short title of this Act is the *District Municipality of Muskoka Amendment Act, 1982*.

Short title

BILL 9

An Act to amend the District Municipality of Muskoka Act

1st Reading

March 11th, 1982

2nd Reading

May 31st, 1982

3rd Reading

June 4th, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

8N
56
BILL 10

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to amend the Municipal Elections Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill enlarges from two years to three years the term of office of persons elected in 1982 and subsequently as members of the council of a municipality or of a local board, the election to which is governed by the Act.

BILL 10

1982

An Act to amend the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 9 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 9 (1),
re-enacted

(1) Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be three years, commencing on the first day of December in an election year. Three-year
term

2. Subsection 10 (1) of the said Act is repealed and the following substituted therefor: s. 10 (1),
re-enacted

(1) An election shall be held in accordance with this Act in each municipality in the year 1982 and in every third year thereafter for the purpose of electing persons to offices. Election
year

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Municipal Elections Amendment Act, 1982*. Short title

BILL 10

An Act to amend
the Municipal Elections Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs
and Housing

(Government Bill)

BILL 10

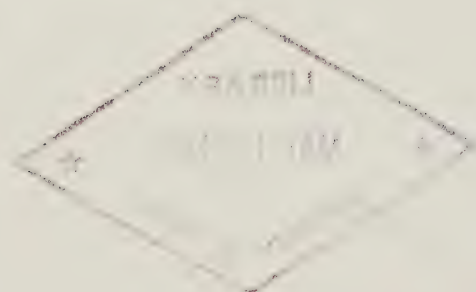
2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Municipal Elections Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing





BILL 10

1982

An Act to amend the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 9 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 9 (1),
re-enacted

(1) Notwithstanding any other general or special Act and except where otherwise specifically provided in this Act, the term of office of all offices, the election to which is governed by this Act, shall be three years, commencing on the first day of December in an election year. Three-year
term
2. Subsection 10 (1) of the said Act is repealed and the following substituted therefor:

s. 10 (1),
re-enacted

(1) An election shall be held in accordance with this Act in each municipality in the year 1982 and in every third year thereafter for the purpose of electing persons to offices. Election
year
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is the *Municipal Elections Amendment Act, 1982*. Short title

An Act to amend
the Municipal Elections Act

1st Reading

March 11th, 1982

2nd Reading

March 16th, 1982

3rd Reading

April 23rd, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs
and Housing

28W

356

Government
Publication

BILL 11

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY
V
2

**An Act to provide for the
Licensing of Businesses by Municipalities**

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill removes from the *Municipal Act* a large number of provisions for the licensing and regulating of a variety of specific trades or businesses and confers a general authority on all local municipalities to pass by-laws to license, regulate and govern any business carried on within the municipality, provided the terms of any such licensing and regulating by-law do not conflict with Provincial statutes or regulations thereunder dealing with any particular business.

Among the principal features of the Bill are the following:

1. Authority is conferred on the councils of all local municipalities to pass by-laws for licensing, regulating and governing any business carried on within the municipality (s. 2 (1)).
2. The specific powers that are comprised within the general power to license, regulate and govern are set out: some examples of these included powers are,
 - (a) the power to prohibit the carrying on of a business without a licence (s. 2 (4) (a));
 - (b) the power to define a class or classes of business and to separately license each such class (s. 2 (4) (c));
 - (c) the power to regulate the hours of operation of a business (s. 2 (4) (d));
 - (d) subject to certain exceptions, the power to require an applicant for a licence to submit to an examination to determine his competence in the relevant field (s. 2 (4) (e));
 - (e) the power to require persons carrying on a business to maintain adequate insurance coverage (s. 2 (4) (g));
 - (f) the power to refuse, revoke or suspend a licence following a hearing either by council or by a committee appointed by council (s. 2 (4) (h));
 - (g) the power to fix a fee not exceeding \$10 per annum for a licence or, where a pre-licensing inspection is required, \$25 per annum; or in the alternative, to fix licensing fees generally in such amounts that the revenue obtained not exceed the municipality's administrative expenses incurred in respect of licensing (s. 2 (4) (k) and s. 2 (5, 6)).
3. Where a licensing by-law conflicts with Provincial statutes or regulations thereunder the statute or regulation prevails (s. 2 (7)).
4. The Lieutenant Governor in Council may by regulation exempt specified businesses from the operation of municipal licensing by-laws (s. 2 (8)).
5. Monopoly rights are not to be granted (s. 3).
6. Licensing by-laws automatically expire 5 years after their passage (s. 6).
7. Certain additional powers as specified may be exercised in respect of body-rub parlours, adult entertainment parlours, taxicabs, buses and cartage vehicles, auctioneers and others (s. 4 (1-5)).

8. Where a licence is revoked or the holder thereof goes out of business, a proportionate part of the fee may be refunded (s. 4 (6)).
9. The included powers set out in s. 2 (4) of the Bill are conferred in respect of by-laws passed under those sections of the *Municipal Act* that remain in that Act for the licensing of certain businesses (s. 5).
10. A large number of provisions relating to licensing and regulating specific business presently to be found in the *Municipal Act* are repealed (ss. 9-20).
11. Certain other statutes and provisions to be found outside the *Municipal Act* relating to licensing are repealed (s. 21).
12. The Act is to come into force on the 1st day of January, 1983 (s. 22).

BILL 11

1982

An Act to provide for the Licensing of Businesses by Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, “business” means any trade, calling, business, occupation, manufacture or industry and includes the sale or hire of goods or services on an intermittent or one-time basis. Interpre-
tation

2.—(1) Notwithstanding any provision in any other general or special Act, but subject to subsection (7), by-laws may be passed by the councils of local municipalities for licensing, regulating and governing any business carried on within the municipality. Licensing,
regulating,
etc.,
businesses

(2) Where a person in pursuit of a business exposes samples, patterns or specimens of any goods, wares or merchandise that are to be delivered in the municipality afterwards, he shall, for the purpose of subsection (1), be deemed to be carrying on business in the municipality. Where
business
deemed
carried on in
municipality

(3) The council of a county may pass by-laws for licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, within the county. County by-law
licensing
auctioneers,
etc.

(a) A by-law passed by the council of a county under this subsection does not apply in a local municipality within the county where the council of that local municipality has passed a by-law for a similar purpose.

(4) The power to license, regulate and govern a business includes, Included
powers

(a) the power to prohibit the carrying on of or the engaging in the business without a licence;

- (b) the power to license, regulate or govern the place or premises used in the carrying on of such business and the persons carrying it on or engaged in it;
- (c) the power to define a class or classes of a business and to separately license, regulate and govern each of such class or classes or to specify that any of such class or classes shall not be subject to the provisions, or to any particular provision, of the by-law;
- (d) subject to paragraph 1 and sections 213 and 214 of the *Municipal Act*, the power to regulate the hours of operation of the business:

R.S.O. 1980,
c. 302

- 1. Nothing in this clause confers the power to regulate the hours of operation of a shop as defined in subsection 211 (1) of the *Municipal Act*;

- (e) subject to paragraph 3, the power to require an applicant, as a condition of the granting to him of a licence, to submit to an examination to determine his competence to carry on or engage in the business or any class of the business in respect of which he is applying for a licence and to refuse to grant a licence or to grant a licence upon conditions to such an applicant in respect of a business or any class of a business where he fails to pass the required examination:

- 1. The power to require an examination of an applicant for a licence to carry on or engage in a business includes the power to require an examination of an applicant who did not hold a licence to carry on or engage in that business in the municipality for a period immediately preceding the period for which he is applying for the licence and of an applicant or holder of a licence where the licence last held by him for the carrying on or engaging in of the business in the municipality or in another municipality was revoked on the grounds that the applicant or holder of the licence was shown to have carried on or engaged in the business in an incompetent manner whether or not such grounds were the sole grounds on which the licence was revoked.

- A. Where the holder of a licence fails to pass an examination required of him

under paragraph 1, the council may revoke his licence.

2. The power to require an examination of an applicant for a licence to carry on or engage in a business includes the power to exempt from such requirement any applicant who holds such evidence of qualification, including a licence issued in respect of the business by any other specified municipality, as may be prescribed in the by-law.
3. Where a person who holds a certificate of apprenticeship or a certificate of qualification issued under the *Apprenticeship and Tradesmen's Qualification Act* in respect of a trade or branch of a trade applies for a licence to engage in or carry on the trade or branch of the trade in respect of which the certificate was issued, he shall not be required to submit to an examination as a condition of the granting to him of the licence, but a licence granted to such a person under a by-law passed under this section may be revoked or suspended on the grounds that he has been shown to have carried on or engaged in the business in an incompetent manner and upon such revocation or suspension, he is no longer entitled to the benefit of this paragraph.

R.S.O. 1980,
c. 24

 - A. Where a municipality has passed a by-law for the licensing and examining of master tradesmen engaged in or carrying on work in respect of a specific trade, a person is not exempted from submitting to an examination under that by-law by virtue only of the fact that he holds a certificate of apprenticeship or certificate of qualification in respect of the trade under the *Apprenticeship and Tradesmen's Qualification Act*.
 - B. For the purpose of subparagraph A, "master tradesman" means a person who is skilled in the planning, superintending and installing of parts, equipment, appliances and any other things relating to the trade in respect of which he is a master tradesman, who is familiar with the laws, rules and regulations governing the same, who has a regular place of

R.S.O. 1980,
c. 24

business in Ontario and who, himself, or by journeymen tradesmen in his employ performs the trade and "journeyman tradesman" means a person who has been issued a certificate of qualification in a trade under the *Apprenticeship and Tradesmen's Qualification Act*;

- (f) the power to regulate, govern and inspect the premises, facilities, equipment, vehicles and other personal property used or kept for hire in connection with the carrying on of the business and to provide for imposing a fine upon any person carrying on or engaged in the business who refuses to allow the carrying out of an inspection at any reasonable time under a by-law passed under this clause;
- (g) the power to require the persons carrying on or engaged in the business to provide such public liability, property damage, cargo, or other insurance in such form and to such amounts of coverage as may be prescribed in the by-law, and where such insurance is not so provided, the council may refuse to grant a licence to that person for the carrying on of that business or may revoke or suspend any such licence;
- (h) the power to grant or refuse a licence for the carrying on or engaging in of such business or to revoke or suspend such licence and to make any suspension subject to such terms or conditions as council may prescribe:

R.S.O. 1980,
c. 498

1. Subject to the *Theatres Act*, the exercise of the power mentioned in this clause is in the discretion of the council, which discretion shall be exercised upon such grounds as are set out in a by-law passed under subsection (1) or (3), and a decision made pursuant to the exercise of that power is final.
2. The council shall not refuse to grant a licence to any applicant or suspend or revoke the licence of any person without first affording to such applicant or person the opportunity to be heard.
3. The council may provide for hearings under paragraph 2 to be conducted and opportunities

for such hearings to be afforded by a committee to consist of one or more persons, at least one of whom shall be a member of council, and the provisions of section 106 of the *Municipal Act* apply with necessary modifications to hearings conducted and opportunities for hearings afforded by a committee under this paragraph.

R.S.O. 1980,
c. 302

4. The council shall not refuse to grant a licence with respect to the carrying on of a business by reason only of the location of such business except that the council shall refuse to grant a licence where the location of the business proposed to be carried on is such that the carrying on of the business would be in contravention of a by-law passed under section 39 of the *Planning Act* or a predecessor of such section or of an order of the Minister made under clause 35 (1) (a) of the *Planning Act* or of a regulation made by the Minister under section 4 of the *Parkway Belt Planning and Development Act*, or would be in contravention of subsection 24 (1) of the *Niagara Escarpment Planning and Development Act*.

R.S.O. 1980,
cc. 379, 368,
316

5. The council may refuse to grant a licence or may revoke or suspend a licence where the business in respect of which the licence is to be or has been granted is to be carried on or is carried on in contravention of a by-law of the municipality;

(i) the power to fix the time for which the licence shall be in force;

(j) the power to suspend, until the fine is paid, the licence of any person upon whom a fine has been imposed under the *Provincial Offences Act* for the contravention of the licensing by-law under which the licence was granted where the fine or any part of the fine is due and unpaid for fifteen days or more;

R.S.O. 1980,
c. 400

(k) subject to subsections (5) and (6), the power to fix the fee to be paid for the licence as a condition of the licence being granted which fee may be such amount as the council considers advisable.

(5) The fee to be paid for a licence shall not exceed,

Limitation
on amount
of fees

(a) \$10 per annum; or

(b) where an inspection is required in respect of a business as a condition precedent to the granting of a licence to carry on the business, \$25 per annum.

Idem

(6) As an alternative to fixing licence fees in accordance with subsection (5), the council may fix the fees for licences issued by it in such amounts that the total of the fees paid to the municipality for all such licences in any year does not exceed the total of all expenditures made by the municipality in that year for administering and enforcing the licensing by-laws of the municipality in respect of those licences.

(a) Subsection (5) and this subsection do not apply to fees fixed or paid or expenditures made in respect of a by-law for the licensing of a business to which subsections 4 (1), (2) or (3) apply.

Conflict

(7) Where the provisions of a by-law passed under subsection (1) or (3) are in conflict with the provisions of any Act or of any regulation or rule made under any Act for licensing, regulating or otherwise controlling any business or the persons carrying on or engaged in any business the provisions of the Act or regulation or rule, as the case may be, prevail to the extent of the conflict.

Regulations

(8) Notwithstanding subsection (1), the Lieutenant Governor in Council may make regulations providing that any business or class of business shall not be subject to,

(a) a by-law passed under this Act; or

(b) those provisions of a by-law passed under this Act that implement such of the powers set out in subsection (4) as are specified in the regulation.

Granting
monopolies
prohibited
R.S.O. 1980,
cc. 302, 160,
496

3. Subject to section 119 of the *Municipal Act* and to section 6 of the *Ferries Act* and to section 100 of the *Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any business, or impose a special tax on any person exercising it, or require a licence to be taken for exercising it, unless authorized or required by this or any other Act so to do.

Scope of
by-law,
body-rub
parlours

4.—(1) Where a by-law has been passed under subsection 2 (1) for licensing or regulating body-rub parlours, the by-law may,

(a) limit the number of licences to be granted, in accordance with clause (c);

- (b) provide for regulating the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting body-rub parlours or for the prohibition of such signs, advertising, or advertising devices;
- (c) notwithstanding paragraph 4 of clause 2 (4) (h), define the area or areas of the municipality in which body-rub parlours may or may not operate and may limit the number of licences to be granted in respect of body-rub parlours in any such area or areas in which they are permitted;
- (d) prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under a by-law mentioned in this subsection from permitting any person under the age of eighteen years to enter or remain in the body-rub parlour or any part thereof;
- (e) provide that no premises in which a body-rub parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law:
 1. Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law mentioned in this subsection has occurred in respect of a body-rub parlour, he may enter such body-rub parlour, at any time of the night or day, for purposes of carrying out the enforcement of the by-law.
 2. For the purpose of any prosecution or proceeding under a by-law mentioned in this subsection, the holding out to the public that services described in paragraph 4 are provided in premises or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is a body-rub parlour.
 3. Nothing in this subsection affects the power that may be exercised by a municipality under this or any other general or special

Act to license, regulate or govern any other trade, calling, business or occupation.

4. For the purposes of this subsection,

- i. "body-rub parlour" includes any premises or part thereof where a body-rub is performed, offered or solicited in pursuance of a trade, calling, business or occupation, but does not include any premises or part thereof where the body-rubs performed are for the purpose of medical or therapeutic treatment and are performed or offered by persons otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario; and
- ii. "body-rub" includes the kneading, manipulating, rubbing, massaging, touching or stimulating, by any means, of a person's body or part thereof, but does not include medical or therapeutic treatment given by a person otherwise duly qualified, licensed or registered so to do under the laws of the Province of Ontario.

Scope of
by-law, adult
entertain-
ment parlours

(2) Where a by-law has been passed under subsection 2 (1) for licensing or regulating adult entertainment parlours, such by-law may,

- (a) limit the number of licences to be granted, in accordance with clause (c);
- (b) regulate the placement, construction, size, nature and character of signs, advertising, and advertising devices, including any printed matter, oral or other communication or thing, posted or used for the purpose of promoting adult entertainment parlours or any class or classes thereof or for the prohibition of such signs, advertising or advertising devices;
- (c) notwithstanding paragraph 4 of clause 2 (4) (h), define the area or areas of the municipality in which adult entertainment parlours or any class or classes thereof may or may not operate and may limit the number of licences to be granted in respect of adult entertainment parlours or any class or classes thereof in any such area or areas in which they are permitted;

(d) notwithstanding clause 2 (4) (d) and section 211 of the *Municipal Act*, regulate the hours of operation of adult entertainment parlours or any class or classes thereof;

R.S.O. 1980,
c. 302

(e) prohibit any person carrying on or engaged in the trade, calling, business or occupation for which a licence is required under a by-law mentioned in this subsection from permitting any person under the age of eighteen years to enter or remain in the adult entertainment parlour or any part thereof;

(f) provide that no premises in which an adult entertainment parlour is located shall be constructed or equipped so as to hinder or prevent the enforcement of the by-law:

1. Where a medical officer of health or a public health inspector acting under his direction, or a peace officer, has reason to suspect that a breach of any provision of a by-law mentioned in this subsection has occurred in respect of an adult entertainment parlour, he may enter such adult entertainment parlour, at any time of the night or day, for purposes of carrying out the enforcement of the by-law.

2. For the purpose of any prosecution or proceeding under a by-law mentioned in this subsection, the holding out to the public that goods or services described in paragraph 4 are provided in premises, or any part thereof, is admissible in evidence as *prima facie* proof that the premises or part thereof is an adult entertainment parlour.

3. Nothing in this subsection affects the power that may be exercised by a municipality under this or any other general or special Act to license, regulate or govern any other trade, calling, business or occupation.

4. In this subsection,

- (a) "adult entertainment parlour" means any premises or part thereof in which is provided in pursuance of a trade, calling, business or occupation, goods or services appealing to or designed to

appeal to, erotic or sexual appetites or inclinations;

- (b) "goods" includes books, magazines, pictures, slides, film, phonograph records, prerecorded magnetic tape and any other reading, viewing or listening matter;
- (c) "to provide" when used in relation to goods includes to sell, offer to sell or display for sale, by retail or otherwise such goods, and "providing" and "provision" have corresponding meanings;
- (d) "to provide" when used in relation to services includes to furnish, perform, solicit, or give such services and "providing" and "provision" have corresponding meanings;
- (e) "services" includes activities, facilities, performances, exhibitions, viewings and encounters;
- (f) "services designed to appeal to erotic or sexual appetites or inclinations" includes,
 - (i) services of which a principal feature or characteristic is the nudity or partial nudity of any person,
 - (ii) services in respect of which the word "nude", "naked", "topless", "bottomless", "sexy" or any other word or any picture, symbol or representation having like meaning or implication is used in any advertisement.

5. A by-law mentioned in this subsection does not apply to premises or trades, callings, businesses or occupations carried on in premises licensed under the *Theatres Act* or licensed under a by-law mentioned in subsection (1).

R.S.O. 1980,
c. 498

Scope of
by-law,
cabs, buses,
etc.

- (3) Where a by-law has been passed under subsection 2 (1) for licensing or regulating owners or drivers of cabs or buses used for

hire or owners, operators or drivers of motor or other vehicles used for hire for the carriage of goods or passengers, such by-law may,

- (a) establish the rates or fares to be charged by the owners, operators or drivers of such vehicles for the conveyance of goods or passengers either wholly within the municipality or to any point not more than five kilometres beyond its limits and provide for the collection of such rates or fares;
- (b) limit the number of cabs or buses used for hire or motor or other vehicles used for hire for the carriage of goods or passengers, or any class or classes thereof, that may be operated in the municipality:

1. No by-law mentioned in this subsection passed by the Council of the City of Mississauga shall apply to owners and drivers of cabs, other than cabs licensed by the said council, while such cabs are engaged in the conveyance of goods or passengers, if such conveyance commenced at the Toronto International Airport;

- (c) provide that the by-law, including any provisions for establishing fares or rates or limiting the number of cabs, shall apply to the owners and drivers of cabs engaged in the conveyance of goods or passengers from any point within the municipality to any point outside the municipality, except where such conveyance is made to an airport owned and operated by the Crown in right of Canada situate outside the municipality by a cab bearing a valid and subsisting plate issued in respect of such airport under The Government Airport Concession Operations Regulations made under the *Department of Transport Act* (Canada);

R.S.C. 1970,
c. T-15

- (d) exempt from all or any of its provisions, upon such conditions as may be set out in the by-law, owners and drivers of cabs engaged in the conveyance of,
 - (i) children taking the cab both to and from nursery school, school or other full-time education institution, or
 - (ii) physically, emotionally or mentally handicapped persons, as defined in the by-law,

from any point within the municipality to any point outside the municipality, where the conveyance is made pursuant to a written contract for the use of a cab with respect to which there is a valid and subsisting licence issued under a by-law passed under this paragraph by another municipality; and

- (e) exempt from all or any of its provisions owners and drivers of cabs with respect to which there is a valid and subsisting licence issued under this paragraph by another municipality named in the by-law.

Scope of
by-law,
salesmen

(4) Where a by-law has been passed under subsection 2 (1) for the licensing, regulating and governing of persons who go from place to place or to a particular place with goods, wares or merchandise for sale,

- (a) the licensee shall at all times while carrying on his business have his licence with him and shall upon demand exhibit it to any municipal or peace officer, and if he fails to do so is guilty of an offence, unless the same is accounted for satisfactorily, and on conviction is liable to a fine not to exceed \$200;

- (b) if a peace officer demands the production of a licence by any persons to whom the by-law applies and the demand is not complied with, it is the duty of the peace officer and he has power to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to the law.

Auctioneers,
etc., by-law
not to apply
to sheriff

(5) Where a by-law has been passed under subsection 2 (1) or (3) for licensing or regulating auctioneers or other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, such by-law does not apply to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent.

Refund
when
licence
revoked, etc.

(6) Where a licence granted in respect of a business is revoked or where a business in respect of which a licence has been granted ceases to operate and where a fee has been paid for the granting of the licence, the council may, upon the application of the licensee, refund that part of the licence fee that is proportionate to the portion of the term remaining from the date upon which the licence was revoked or the business ceased to operate.

Application
to licensing
powers
under
R.S.O. 1980,
c. 302

5. Subsection 2 (4), except clause (k) thereof, and subsection 4 (6) apply, with necessary modifications, to the powers of the

council of a municipality under the *Municipal Act* for licensing, regulating or governing a business or the persons carrying it on or engaged in it or the place or things used for carrying it on except that where there is a conflict between the provisions of this section and the provisions of the *Municipal Act*, the provisions of that Act prevail to the extent of the conflict.

R.S.O. 1980,
c. 302

6. A by-law passed or continued in force under the authority of this Act, or so much of such by-law as is still in force, shall upon the expiry of five years from the date of its passing or from the date this Act comes into force, whichever is later, be deemed to have been repealed.

When by-laws
deemed
repealed

7. For the purpose of any prosecution or proceeding under a by-law passed under this Act or the *Municipal Act* for licensing, regulating, governing, classifying or inspecting any trade, calling, business or occupation, a statement as to the licensing or non-licensing of any premises or person in respect of any trade, calling, business or occupation, purporting to be signed by the clerk of a municipality or of a regional or metropolitan municipality or by the chief administrative officer of a licensing commission, is, without proof of the office or signature of the said clerk or officer, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in such prosecution or proceeding.

Statement of
clerk, etc.,
as to
licensing or
non-licensing

8.—(1) A by-law mentioned in subsection 4 (1) or (2) may provide that every person who contravenes the by-law, and every director or officer of a corporation who concurs in such contravention by the corporation, is guilty of an offence and on conviction is liable to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding one year, or to both.

Offence

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed on the corporation is \$25,000 and not as provided therein.

Corporation,
maximum
penalty

9. Sections 110 and 111 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed.

R.S.O. 1980,
c. 302, ss. 110,
111, repealed

10. Paragraphs 26 and 61 of section 208 of the said Act are repealed.

R.S.O. 1980,
c. 302, s. 208,
pars. 26, 61,
repealed

11. Paragraphs 7, 16, 133, 149, 151, 152, 153, 155, 156, 157, 158, 159, 160 and 161 of section 210 of the said Act are repealed.

R.S.O. 1980,
c. 302, s. 210,
pars. 7, 16,
133, 149,
151-153,
155-161,
repealed

12. Sections 221, 222, 223 and 224 of the said Act are repealed.

R.S.O. 1980,
c. 302
ss. 221-224,
repealed

13. Paragraph 7 of section 225 of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 302, s. 225,
par. 7,
re-enacted

Regulating
traffic

7. For the exercise of the powers conferred upon the councils of local municipalities by paragraph 117 of section 210 in respect of highways under the jurisdiction of the council.

R.S.O. 1980,
c. 302, ss. 227,
228, 231,
repealed;
s. 230,
re-enacted

14. Sections 227, 228, 230 and 231 of the said Act are repealed and the following substituted therefor:

Prohibiting
sale of
refreshments
on public
streets, etc.

230. By-laws may be passed by the councils of local municipalities for prohibiting the sale of refreshments or confections, including, without limiting the generality of the foregoing, fruit, candy, peanuts, popcorn, ice cream, ice cream cones, iced milk and other iced confectionery from a basket or wagon, cart or other vehicle upon any highway or part of it or in any public park or other public place, but no by-law passed under this paragraph applies to a farmer, market gardener or other person selling or delivering goods at any place of business or residence upon such highway or part thereof.

R.S.O. 1980,
c. 302, s. 232,
re-enacted

15.—(1) Section 232 of the said Act, exclusive of the paragraphs, is repealed and the following substituted therefor:

232. By-laws may be passed by the councils of local municipalities.

R.S.O. 1980,
c. 302, s. 232,
pars. 1-6,
repealed,
par. 7,
re-enacted

(2) Paragraphs 1, 2, 3, 4, 5, 6 and 7 of section 232 of the said Act are repealed and the following substituted therefor:

Exhibitions
of wax works,
shows, etc.

7. For prohibiting or regulating and licensing exhibitions of wax works, menageries, circus-riding, and other like shows usually exhibited by showmen, and for regulating and licensing merry-go-rounds, switchback railways, carousels, and other like contrivances, and for fixing a fee to be paid for the licence, and for imposing penalties not exceeding the amount of the licence fee on offenders against the by-law, and for levying the same by distress and sale of the goods and chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

(a) A licence shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 275 metres from the grounds of the society, or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.

(b) The fee to be paid for the licence shall not exceed \$500.

R.S.O. 1980,
c. 302, s. 232,
pars. 8, 9, 10,
11, 12, 13 and
18,
repealed

(3) Paragraphs 8, 9, 10, 11, 12, 13 and 18 of section 232 of the said Act are repealed.

16. Subsection 233 (2) of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 302,
s. 233 (2),
re-enacted

(2) By-laws may be passed by the councils of local municipalities for licensing and regulating special sales of goods and persons conducting such sales and for inspecting such goods and for fixing such fees for the licences as the council considers advisable.

Licensing and
regulating
special sales

17. Section 234 of the said Act is repealed and the following substituted therefor:

R.S.O. 1980,
c. 302, s. 234,
re-enacted

234. By-laws may be passed by the councils of local municipalities for regulating or prohibiting the playing of bands and of musical instruments on any highway or in any park or public place.

Bands
of music

18. Sections 322, 328 and 329 of the said Act are repealed.

R.S.O. 1980,
c. 302, ss. 322,
328, 329,
repealed

19. Clauses 347 (1), (i), (j) and (k) and subsection 347 (2) of the said Act are repealed.

R.S.O. 1980,
c. 302,
s. 347 (1), (i),
(j), (k), (2),
repealed

20. Subsection 502 (1) of the said Act is repealed.

R.S.O. 1980,
c. 302,
s. 502 (1),
repealed

21. The following are repealed:

Repeals

1. The *Bread Sales Act*, being chapter 48 of the Revised Statutes of Ontario, 1980.

2. The *Public Halls Act*, being chapter 408 of the Revised Statutes of Ontario, 1980.

3. Subsections 21 (1), (2), (3), (5) and (6) of the *Milk Act*, being chapter 266 of the Revised Statutes of Ontario, 1980.

22. This Act comes into force on the 1st day of January, 1983.

Commence-
ment

23. The short title of this Act is the *Municipal Licensing Act*, 1982.

Short title

BILL 11

An Act to provide
for the Licensing of Businesses
by Municipalities

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

56
7W
BILL 12

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982 Y

LEGISLATIVE ASSEMBLY
2

An Act to amend the Municipal Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

SECTION 1. The proposed re-enactment of subsection 10 (2) of the Act provides that improvement districts may only be incorporated in territories without municipal organization.

SECTION 2. The proposed section 39a provides that if the seat of the reeve or deputy reeve of a local municipality on a county council is declared vacant, then his or her seat on the council of the local municipality also becomes vacant.

SECTION 3. Subsection 62 (1) now reads as follows:

- (1) *Except where he is disqualified to vote by reason of interest or otherwise, where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it.*

The proposed re-enactment of subsection 62 (1) provides that a failure to vote when a vote is being recorded shall be deemed to be a negative vote.

BILL 12

1982

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (2) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 10 (2),
re-enacted

(2) The Municipal Board, upon the application of the Ministry or of not less than thirty inhabitants of a locality situated in territory without municipal organization and having a population of not less than fifty, may incorporate the inhabitants of the locality or a larger or smaller locality as an improvement district. Improvement
districts

2. The said Act is amended by adding thereto the following section: s. 39a,
enacted

39a.—(1) If not already vacant by virtue of any Act, the seat of a reeve or deputy reeve on the council of a local municipality becomes vacant if his seat on the county council is declared vacant by the county council. County
council
vacancies

(2) Where a county council declares the seat of one of its members to be vacant and, as a result of the declaration, the seat of that member on the council of a local municipality becomes vacant under subsection (1), the county council shall forthwith cause a copy of its declaration to be forwarded to the council of the local municipality and that council shall forthwith declare the seat of the member on that council to be vacant. Idem

3. Subsection 62 (1) of the said Act is repealed and the following substituted therefor: s. 62 (1),
re-enacted

(1) Where a vote is taken for any purpose and a member requests immediately prior or immediately subsequent to the taking of the vote that the vote be recorded, each member present, except a member who is disqualified from voting by any Act, shall announce his vote openly, and any failure to vote by a Recorded
votes

member who is not disqualified shall be deemed to be a negative vote and the clerk shall record each vote.

s. 82 (a),
re-enacted

4. Clause 82 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the municipality at such place of deposit as may be approved by the council.

s. 143 (4) (a),
amended

5. Clause 143 (4) (a) of the said Act is amended by striking out "ten" in the third line and inserting in lieu thereof "five".

s. 143a,
enacted

6. The said Act is further amended by adding thereto the following section:

Extendible
and
retractable
debentures
R.S.O. 1980,
c. 359

143a.—(1) Notwithstanding any other provision of this Act, a local municipality having a population of not less than 20,000, as determined under the *Ontario Unconditional Grants Act*, may provide in any money by-law for the issuing of debentures, which by-law shall not require the assent of the electors, that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date not less than five years after the date of issue thereof with interest payable annually or semi-annually, subject to the obligation of the municipality,

(a) to extend the term of all or any of the debentures at the request of the holder thereof given to the treasurer of the municipality at any time or times fixed in the by-law prior to the maturity date of the debentures on the terms and subject to the conditions as to notice and other relevant matters set forth in the by-law, which debentures shall be known as extendible term debentures; or

(b) if the debentures have a maturity date longer than five years, to redeem all or any of the debentures at the request of a holder thereof at an earlier date or dates fixed in the by-law not earlier than five years after the date upon which the debentures are issued, on the terms and subject to the conditions as to notice and other relevant matters set forth in the by-law, which debentures shall be known as retractable term debentures.

Change of
interest
rate

- (2) A by-law passed under subsection (1) shall,

(a) with respect to extendible term debentures,

(i) fix the rate of interest payable thereon during the initial term, and

SECTION 4. Clause 82 (a) now provides that the treasurer of a municipality shall,

(a) open an account or accounts in the name of the municipality in such of the chartered banks of Canada or at such other place of deposit as may be approved by the council.

The underlined words are deleted by the proposed re-enactment of clause 82 (a). The deleted words are redundant.

SECTION 5. The proposed amendment to clause 143 (4) (a) will enable municipalities having a population of more than 20,000 to issue instalment debentures that mature in five years. At present, the term of such debentures is a minimum of ten years.

SECTION 6. The proposed section 143a will authorize municipalities having a population of not less than 20,000 to issue extendible term debentures and retractable term debentures.

- (ii) provide that the rate of interest payable thereon with respect to any extended term,

- (A) shall be the same as the amount fixed under subclause (i),

- (B) shall be such different rate as is set out in the by-law, or

- (C) shall be a rate determined by a further by-law of the municipality passed not less than six months prior to the maturity date of the debentures; and

- (b) with respect to retractable term debentures,

- (i) fix the rate of interest payable thereon prior to the first early redemption date,

- (ii) provide that the rate of interest payable thereon with respect to any period commencing the day immediately following an early redemption date and expiring with the next early redemption date or with the maturity date, as the case may be,

- (A) shall be the same as the amount fixed under subclause (i),

- (B) shall be such different rate as is set out in the by-law, or

- (C) shall be a rate determined by a further by-law of the municipality passed not less than six months prior to the beginning of the period.

(3) Where a by-law passed under subsection (1) contains a provision authorized by sub-subclause (2) (a) (ii) (C) or (b) (ii) (C), notice of the change in the interest rate shall be sent by the treasurer of the municipality by prepaid mail at least seventy days prior to the date set for such change to the person, if any, in whose name the debenture is registered at the address shown in the Debenture Registry Book and shall be published at least sixty days prior to the maturity or redemption date in such manner as the by-law may provide. Notice of change

(4) A by-law passed under subsection (1) shall, with respect to extendible or retractable term debentures, provide for raising by a special rate on all the rateable property in the municipality, Mandatory provisions in by-law

- (a) in each year of the currency of the debentures, a sum sufficient to pay the interest thereon; and
- (b) in each year of the currency of the debentures, a specified amount to form a retirement fund for the debentures which amount shall be equal to or greater than the amount that would have been required to have been raised in each year in respect of principal if the principal amount of the debentures had been payable in equal annual instalments and the debentures had been issued for the maximum period of years that was approved by the Municipal Board for the repayment of debentures issued for the debt for which the debentures were issued, commencing on the date of the debentures,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any other by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act.

Retirement
fund

(5) The retirement fund referred to in clause (4) (b) shall be administered in all respects in the same manner as a sinking fund established under section 146, and subsections 146 (3) to (9) apply with necessary modifications to the retirement fund.

Debentures
to refund
existing
debentures
at maturity

(6) To the extent that it has not otherwise been raised or is not otherwise available, the money required to refund extendible or retractable term debentures issued under a by-law passed under this section shall be raised by the issue of debentures under the appropriate clause of subsection (7).

Exchange
and refund

(7) A municipality may, by by-law, authorize the issue of debentures,

- (a) to be exchanged for extendible term debentures extended by the holders thereof in accordance with this section and the by-law authorizing the issue of such debentures;
- (b) to refund at maturity extendible term debentures; and
- (c) to refund retractable term debentures at maturity and at early redemption dates.

Maximum
term of
debentures

(8) Debentures issued under subsection (7) shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the debentures were issued, commencing on the date of the debentures that are being refunded or for which the exchange is being made.

SECTIONS 7 AND 8. Recent amendments to the *Bank Act* (Canada) permit non-Canadian owned banks to provide banking services in Canada. The proposed amendments reflect the change in federal law.

SECTION 9. Under the proposed re-enactment of paragraph 23 of section 208, a municipality would be able to contract for the use by any person of the employees and mechanical equipment of the municipality. At present, the municipality may only enter into such contracts with respect to its mechanical equipment.

The repeals set out in subsections 9 (2) and (3) of the Bill are complementary to the enactment of section 321*a* of the Act as set out in section 13 of the Bill.

(9) A by-law passed under subsection (7) shall provide for the amounts of principal and interest payable on the debentures to be raised by a rate or rates on the rateable property of the same class or classes of ratepayers as were subject to the rates levied to raise amounts to pay the principal and interest payable on the debentures that are being refunded or for which the exchange is being made.

Mandatory provision in by-law

(10) A by-law passed under subsection (2) to fix rates of interest or to change rates of interest shall express the rates in terms of a specific percentage rate and not in terms of a percentage rate based on another rate or amount to be ascertained in the future.

Method of expressing interest rate

(11) The period by which an extendible term debenture may be extended under clause (1) (a) shall be not less than five years and the period shall expire within the maximum period of years that was approved by the Municipal Board for the repayment of debentures issued for the debt for which the extendible debenture was issued, commencing on the date of the extendible debenture.

Term of extensions

(12) Early redemption dates fixed by a by-law passed under clause (1) (b) shall be at least five years apart and the last early redemption date shall precede the maturity date of the debentures by at least five years.

Early redemption dates

(13) Notwithstanding any other provision of this Act or any other Act, the assent of the electors and the approval of the Municipal Board is not required for the extending of debentures under clause (1) (a) or the issuing of debentures under subsection (7).

Assent of electors, O.M.B. approval not required

7. Clause 146 (3) (a) of the said Act is repealed and the following substituted therefor:

s. 146 (3) (a), re-enacted

(a) with a bank named in Schedule A or B to the *Bank Act* (Canada) or a trust company that is registered under the *Loan and Trust Corporations Act*; or

1980-81, c. 40 (Can.)
R.S.O. 1980, c. 249

.

8. Subclause 169 (2) (a) (iii) of the said Act is amended by striking out "chartered bank to which the *Bank Act* (Canada) applies" in the fourth and fifth lines and inserting in lieu thereof "bank named in Schedule A or B to the *Bank Act* (Canada)".

s. 169 (2) (a) (iii), amended

9.—(1) Paragraph 23 of section 208 of the said Act is repealed and the following substituted therefor:

s. 208, par. 23, re-enacted

Agreements
respecting
use of
employees
and
equipment

s. 208,
par. 42 (a, b),
repealed

23. For providing for the use by any person of any of the employees or mechanical equipment of the municipality and for fixing the terms, conditions and charges therefor.

(2) Clauses (a) and (b) of paragraph 42 of the said section 208 are repealed.

s. 208,
par. 55 (d),
repealed
s. 210,
par. 45 (b, d),
repealed

(3) Clause (d) of paragraph 55 of the said section 208 is repealed.

10.—(1) Clauses (b) and (d) of paragraph 45 of section 210 of the said Act are repealed.

s. 210,
par. 117 (a),
repealed

(2) Clause (a) of paragraph 117 of the said section 210 is repealed.

s. 210,
par. 118(b),
repealed

(3) Clause (b) of paragraph 118 of the said section 210 is repealed.

s. 210,
par. 125 (b),
re-enacted

(4) Clause (b) of paragraph 125 of the said section 210 is repealed and the following substituted therefor:

R.S.O. 1980,
c. 198

(b) Subsection 147 (13) of the *Highway Traffic Act* applies with necessary modifications to a by-law passed under this paragraph.

s. 210,
par. 125 (d),
amended

(5) Clause (d) of paragraph 125 of the said section 210 is amended by inserting at the commencement thereof “Notwithstanding subsection 321a (2) and”.

s. 243 (2),
re-enacted

11. Subsection 243 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) A statement submitted under subsection (1) shall also indicate the by-law or resolution and the statutory provision under the authority of which the remuneration or expenses were paid.

Statements
by local
boards

(3) Where in any year a local board or other body pays remuneration or expenses to a member of the local board or body who was appointed by a municipality or who is a member by virtue of his membership on a municipal council, the local board or body shall, on or before the 31st day of January in the next following year, submit to the treasurer of the municipality that the member represents a statement of the remuneration and expenses so paid and the statement shall be itemized to the extent required by the treasurer of the municipality.

s. 315,
par. 8 (b),
repealed

12.—(1) Clause (b) of paragraph 8 of section 315 of the said Act is repealed.

s. 315,
par. 9,
re-enacted

(2) Paragraph 9 of the said section 315 is repealed and the following substituted therefor:

SECTION 10. The amendments to section 210 are complementary to the enactment of section 321*a* of the Act as set out in section 13 of the Bill.

SECTION 11. The proposed re-enactment of subsection 243 (2) clarifies that statements prepared for the purposes of subsection 243 (1) shall indicate the by-laws or resolution under which remuneration or expenses were paid to members of the council in respect of their services on local boards and other bodies.

The proposed subsection 243 (2) requires local boards and other bodies to provide statements to the treasurers of municipalities with respect to remuneration and expenses paid to members of the local board or body who represent the municipalities.

SECTION 12. The repeal of clause (b) of paragraph 8 of section 315 is complementary to the enactment of section 321*a* as set out in section 13 of the Bill. At present, municipalities may pass by-laws designating lanes on roads as lanes solely for the use of public transit vehicles. The proposed paragraph 9 extends this power to include private passenger motor vehicles carrying such number of persons as may be set out in the by-law and taxicabs.

The amendment to paragraph 10 is complementary to the re-enactment of paragraph 9.

Subsection 12 (4) of the Bill is complementary to the re-enactment of certain provisions of the Acts referred to therein.

SECTION 13. The re-enacted section 321 clarifies that a by-law passed under this section may provide that a person who contravenes a municipal by-law is guilty of an offence.

The proposed subsection 321*a* (1) replaces several provisions in the Act which provide for the imposition of fines on owners of motor vehicles that have been illegally parked. The section clarifies that a by-law may provide that the owner of a vehicle that has been left parked, stopped or left standing in contravention of a by-law is guilty of an offence and is liable to a fine.

The proposed subsection 321*a* (2) provides for the payment out of court of fines related to parking offences.

9. For designating any lane on any road over which the municipality has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law, and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law and for prohibiting and regulating the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establish-
ment
of bus lanes

(a) For the purposes of this paragraph,

(i) “any other municipality” includes a metropolitan, regional and district municipality and the County of Oxford,

(ii) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the municipality, or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

(3) Paragraph 11 of the said section 315 is amended by striking out “as a lane solely or principally for the use of public transit motor vehicles or bicycles” in the second and third lines and inserting in lieu thereof “for the uses referred to in the said paragraphs”.

s. 315,
par. 11,
amended

(4) Where a by-law has been passed by a local municipality for a purpose referred to in paragraph 9 of section 315 of the *Municipal Act*, as re-enacted by subsection (2) of this section, under a provision of the *Municipality of Metropolitan Toronto Act*, the *County of Oxford Act* or an Act establishing a regional municipality and the provision of the Act, under which the by-law was passed, is repealed, the by-law shall continue in full force and effect until amended or repealed, as if the provision of the Act under which the by-law was passed had not been repealed.

Transition

R.S.O. 1980,
cc. 302, 314,
365

13. Section 321 of the said Act is repealed and the following substituted therefor:

s. 321,
re-enacted

321. By-laws may be passed by the councils of all municipalities and by the boards of commissioners of police for providing that any person who contravenes any by-law of the council or of the board, as the case may be, passed under the authority of this Act, is guilty of an offence and for providing for the imposition of fines of not more than \$2,000 on every person who is convicted of an offence under any such by-law.

Power to
impose fines

Illegally
parked
vehicles,
owner's
liability

321*a*.—(1) A by-law passed for the purposes of section 321 may provide that, where a vehicle has been left parked, stopped or left standing in contravention of a by-law passed under this Act, the owner of the vehicle, notwithstanding that he was not the driver of the vehicle at the time of the contravention of the by-law, is guilty of an offence and is liable to the fine prescribed for the offence unless, at the time of the offence, the vehicle was in the possession of some person other than the owner without the owner's consent.

Payment
out of
court

(2) A by-law passed for the purposes of section 321 may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that a by-law related to the parking, standing or stopping of vehicles has been contravened.

s. 386 (8),
amended

- 14.** Subsection 386 (8) of the said Act is amended by striking out "chartered bank of Canada" in the fifth line and inserting in lieu thereof "bank named in Schedule A or B to the *Bank Act* (Canada)".

Commence-
ment

- 15.** This Act comes into force on the day it receives Royal Assent.

Short title

- 16.** The short title of this Act is the *Municipal Amendment Act, 1982*.

SECTION 14. The proposed amendment has the same effect as the amendments set out in sections 7 and 8 of the Bill.

BILL 12

An Act to amend the Municipal Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

20N
3
BILL 12

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

ILLUSTRATIVE PURPOSE ONLY

An Act to amend the Municipal Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Reprinted as amended by the Committee of the Whole House)



EXPLANATORY NOTES

SECTION 1. The proposed re-enactment of subsection 10 (2) of the Act provides that improvement districts may only be incorporated in territories without municipal organization.

SECTION 2. The proposed section 39a provides that if the seat of the reeve or deputy reeve of a local municipality on a county council is declared vacant, then his or her seat on the council of the local municipality also becomes vacant.

SECTION 3. Subsection 62 (1) now reads as follows:

- (1) *Except where he is disqualified to vote by reason of interest or otherwise, where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it.*

The proposed re-enactment of subsection 62 (1) provides that a failure to vote when a vote is being recorded shall be deemed to be a negative vote.

BILL 12

1982

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (2) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 10 (2),
re-enacted

(2) The Municipal Board, upon the application of the Ministry or of not less than thirty inhabitants of a locality situated in territory without municipal organization and having a population of not less than fifty, may incorporate the inhabitants of the locality or a larger or smaller locality as an improvement district. Improvement
districts

2. The said Act is amended by adding thereto the following section: s. 39a,
enacted

39a.—(1) If not already vacant by virtue of any Act, the seat of a reeve or deputy reeve on the council of a local municipality becomes vacant if his seat on the county council is declared vacant by the county council. County
council
vacancies

(2) Where a county council declares the seat of one of its members to be vacant and, as a result of the declaration, the seat of that member on the council of a local municipality becomes vacant under subsection (1), the county council shall forthwith cause a copy of its declaration to be forwarded to the council of the local municipality and that council shall forthwith declare the seat of the member on that council to be vacant. Idem

3. Subsection 62 (1) of the said Act is repealed and the following substituted therefor: s. 62 (1),
re-enacted

(1) Where a vote is taken for any purpose and a member requests immediately prior or immediately subsequent to the taking of the vote that the vote be recorded, each member present, except a member who is disqualified from voting by any Act, shall announce his vote openly, and any failure to vote by a Recorded
votes

member who is not disqualified shall be deemed to be a negative vote and the clerk shall record each vote.

s. 82 (a),
re-enacted

4. Clause 82 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the municipality at such place of deposit as may be approved by the council.

s. 143 (4) (a),
amended

5. Clause 143 (4) (a) of the said Act is amended by striking out "ten" in the third line and inserting in lieu thereof "five".

s. 143a,
enacted

6. The said Act is further amended by adding thereto the following section:

Extendible
and
retractable
debentures

143a.—(1) Notwithstanding any other provision of this Act, a local municipality may provide in any money by-law for the issuing of debentures, which by-law shall not require the assent of the electors, that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date not less than five years after the date of issue thereof with interest payable annually or semi-annually, subject to the obligation of the municipality,

(a) to extend the term of all or any of the debentures at the request of the holder thereof given to the treasurer of the municipality at any time or times fixed in the by-law prior to the maturity date of the debentures on the terms and subject to the conditions as to notice and other relevant matters set forth in the by-law, which debentures shall be known as extendible term debentures; or

(b) if the debentures have a maturity date longer than five years, to redeem all or any of the debentures at the request of a holder thereof at an earlier date or dates fixed in the by-law not earlier than five years after the date upon which the debentures are issued, on the terms and subject to the conditions as to notice and other relevant matters set forth in the by-law, which debentures shall be known as retractable term debentures.

Change of
interest
rate

- (2) A by-law passed under subsection (1) shall,

(a) with respect to extendible term debentures,

(i) fix the rate of interest payable thereon during the initial term, and

SECTION 4. Clause 82 (a) now provides that the treasurer of a municipality shall,

(a) *open an account or accounts in the name of the municipality in such of the chartered banks of Canada or at such other place of deposit as may be approved by the council.*

The underlined words are deleted by the proposed re-enactment of clause 82 (a). The deleted words are redundant.

SECTION 5. The proposed amendment to clause 143 (4) (a) will enable municipalities having a population of more than 20,000 to issue instalment debentures that mature in five years. At present, the term of such debentures is a minimum of ten years.

SECTION 6. The proposed section 143a will authorize municipalities to issue extendible term debentures and retractable term debentures.

(ii) provide that the rate of interest payable thereon with respect to any extended term,

(A) shall be the same as the amount fixed under subclause (i),

(B) shall be such different rate as is set out in the by-law, or

(C) shall be a rate determined by a further by-law of the municipality passed not less than six months prior to the maturity date of the debentures; and

(b) with respect to retractable term debentures,

(i) fix the rate of interest payable thereon prior to the first early redemption date,

(ii) provide that the rate of interest payable thereon with respect to any period commencing the day immediately following an early redemption date and expiring with the next early redemption date or with the maturity date, as the case may be,

(A) shall be the same as the amount fixed under subclause (i),

(B) shall be such different rate as is set out in the by-law, or

(C) shall be a rate determined by a further by-law of the municipality passed not less than six months prior to the beginning of the period.

(3) Where a by-law passed under subsection (1) contains a provision authorized by sub-subclause (2) (a) (ii) (C) or (b) (ii) (C), notice of the change in the interest rate shall be sent by the treasurer of the municipality by prepaid mail at least seventy days prior to the date set for such change to the person, if any, in whose name the debenture is registered at the address shown in the Debenture Registry Book and shall be published at least sixty days prior to the maturity or redemption date in such manner as the by-law may provide. Notice of change

(4) A by-law passed under subsection (1) shall, with respect to extendible or retractable term debentures, provide for raising by a special rate on all the rateable property in the municipality, Mandatory provisions in by-law

- (a) in each year of the currency of the debentures, a sum sufficient to pay the interest thereon; and
- (b) in each year of the currency of the debentures, a specified amount to form a retirement fund for the debentures which amount shall be equal to or greater than the amount that would have been required to have been raised in each year in respect of principal if the principal amount of the debentures had been payable in equal annual instalments and the debentures had been issued for the maximum period of years that was approved by the Municipal Board for the repayment of debentures issued for the debt for which the debentures were issued, commencing on the date of the debentures,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any other by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act.

Retirement
fund

(5) The retirement fund referred to in clause (4) (b) shall be administered in all respects in the same manner as a sinking fund established under section 146, and subsections 146 (3) to (9) apply with necessary modifications to the retirement fund.

Debentures
to refund
existing
debentures
at maturity

(6) To the extent that it has not otherwise been raised or is not otherwise available, the money required to refund extendible or retractable term debentures issued under a by-law passed under this section shall be raised by the issue of debentures under the appropriate clause of subsection (7).

Exchange
and refund

(7) A municipality may, by by-law, authorize the issue of debentures,

- (a) to be exchanged for extendible term debentures extended by the holders thereof in accordance with this section and the by-law authorizing the issue of such debentures;
- (b) to refund at maturity extendible term debentures; and
- (c) to refund retractable term debentures at maturity and at early redemption dates.

Maximum
term of
debentures

(8) Debentures issued under subsection (7) shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the debentures were issued, commencing on the date of the debentures that are being refunded or for which the exchange is being made.

SECTIONS 7 AND 8. Recent amendments to the *Bank Act* (Canada) permit non-Canadian owned banks to provide banking services in Canada. The proposed amendments reflect the change in federal law.

SECTION 9. Under the proposed re-enactment of paragraph 23 of section 208, a municipality would be able to contract for the use by any person of the employees and mechanical equipment of the municipality. At present, the municipality may only enter into such contracts with respect to its mechanical equipment.

The repeals set out in subsections 9 (2) and (3) of the Bill are complementary to the enactment of section 321*a* of the Act as set out in section 13 of the Bill.

(9) A by-law passed under subsection (7) shall provide for the amounts of principal and interest payable on the debentures to be raised by a rate or rates on the rateable property of the same class or classes of ratepayers as were subject to the rates levied to raise amounts to pay the principal and interest payable on the debentures that are being refunded or for which the exchange is being made. Mandatory provision in by-law

(10) A by-law passed under subsection (2) to fix rates of interest or to change rates of interest shall express the rates in terms of a specific percentage rate and not in terms of a percentage rate based on another rate or amount to be ascertained in the future. Method of expressing interest rate

(11) The period by which an extendible term debenture may be extended under clause (1) (a) shall be not less than five years and the period shall expire within the maximum period of years that was approved by the Municipal Board for the repayment of debentures issued for the debt for which the extendible debenture was issued, commencing on the date of the extendible debenture. Term of extensions

(12) Early redemption dates fixed by a by-law passed under clause (1) (b) shall be at least five years apart and the last early redemption date shall precede the maturity date of the debentures by at least five years. Early redemption dates

(13) Notwithstanding any other provision of this Act or any other Act, the assent of the electors and the approval of the Municipal Board is not required for the extending of debentures under clause (1) (a) or the issuing of debentures under subsection (7). Assent of electors, O.M.B. approval not required

7. Clause 146 (3) (a) of the said Act is repealed and the following substituted therefor: s. 146 (3) (a), re-enacted

(a) with a bank named in Schedule A or B to the *Bank Act* (Canada) or a trust company that is registered under the *Loan and Trust Corporations Act*; or 1980-81, c. 40 (Can.) R.S.O. 1980, c. 249

.

8. Subclause 169 (2) (a) (iii) of the said Act is amended by striking out "chartered bank to which the *Bank Act* (Canada) applies" in the fourth and fifth lines and inserting in lieu thereof "bank named in Schedule A or B to the *Bank Act* (Canada)". s. 169 (2) (a) (iii), amended

9.—(1) Paragraph 23 of section 208 of the said Act is repealed and the following substituted therefor: s. 208, par. 23, re-enacted

Agreements
respecting
use of
employees
and
equipment

s. 208,
par. 42 (a, b),
repealed

23. For providing for the use by any person of any of the employees or mechanical equipment of the municipality and for fixing the terms, conditions and charges therefor.

(2) Clauses (a) and (b) of paragraph 42 of the said section 208 are repealed.

s. 208,
par. 55 (d),
repealed

(3) Clause (d) of paragraph 55 of the said section 208 is repealed.

s. 210,
par. 45 (b, d),
repealed

10.—(1) Clauses (b) and (d) of paragraph 45 of section 210 of the said Act are repealed.

s. 210,
par. 117 (a),
repealed

(2) Clause (a) of paragraph 117 of the said section 210 is repealed.

s. 210,
par. 118(b),
repealed

(3) Clause (b) of paragraph 118 of the said section 210 is repealed.

s. 210,
par. 125 (b),
re-enacted

(4) Clause (b) of paragraph 125 of the said section 210 is repealed and the following substituted therefor:

R.S.O. 1980,
c. 198

(b) Subsection 147 (13) of the *Highway Traffic Act* applies with necessary modifications to a by-law passed under this paragraph.

s. 210,
par. 125 (d),
amended

(5) Clause (d) of paragraph 125 of the said section 210 is amended by inserting at the commencement thereof “Notwithstanding subsection 321a (2) and”.

s. 243 (2),
re-enacted

11. Subsection 243 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) A statement submitted under subsection (1) shall also indicate the by-law or resolution and the statutory provision under the authority of which the remuneration or expenses were paid.

Statements
by local
boards

(3) Where in any year a local board or other body pays remuneration or expenses to a member of the local board or body who was appointed by a municipality or who is a member by virtue of his membership on a municipal council, the local board or body shall, on or before the 31st day of January in the next following year, submit to the treasurer of the municipality that the member represents a statement of the remuneration and expenses so paid and the statement shall be itemized to the extent required by the treasurer of the municipality.

s. 315,
par. 8 (b),
repealed

12.—(1) Clause (b) of paragraph 8 of section 315 of the said Act is repealed.

s. 315,
par. 9,
re-enacted

(2) Paragraph 9 of the said section 315 is repealed and the following substituted therefor:

SECTION 10. The amendments to section 210 are complementary to the enactment of section 321*a* of the Act as set out in section 13 of the Bill.

SECTION 11. The proposed re-enactment of subsection 243 (2) clarifies that statements prepared for the purposes of subsection 243 (1) shall indicate the by-laws or resolution under which remuneration or expenses were paid to members of the council in respect of their services on local boards and other bodies.

The proposed subsection 243 (2) requires local boards and other bodies to provide statements to the treasurers of municipalities with respect to remuneration and expenses paid to members of the local board or body who represent the municipalities.

SECTION 12. The repeal of clause (b) of paragraph 8 of section 315 is complementary to the enactment of section 321*a* as set out in section 13 of the Bill. At present, municipalities may pass by-laws designating lanes on roads as lanes solely for the use of public transit vehicles. The proposed paragraph 9 extends this power to include private passenger motor vehicles carrying such number of persons as may be set out in the by-law and taxicabs.

The amendment to paragraph 10 is complementary to the re-enactment of paragraph 9.

Subsection 12 (4) of the Bill is complementary to the re-enactment of certain provisions of the Acts referred to therein.

SECTION 13. The re-enacted section 321 clarifies that a by-law passed under this section may provide that a person who contravenes a municipal by-law is guilty of an offence.

The proposed subsection 321*a* (1) replaces several provisions in the Act which provide for the imposition of fines on owners of motor vehicles that have been illegally parked. The section clarifies that a by-law may provide that the owner of a vehicle that has been left parked, stopped or left standing in contravention of a by-law is guilty of an offence and is liable to a fine.

The proposed subsection 321*a* (2) provides for the payment out of court of fines related to parking offences.

9. For designating any lane on any road over which the municipality has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law, and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law and for prohibiting and regulating the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establishment
of bus lanes

(a) For the purposes of this paragraph,

(i) "any other municipality" includes a metropolitan, regional and district municipality and the County of Oxford,

(ii) "public transit motor vehicle" means any motor vehicle operated by, for or on behalf of the municipality, or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

(3) Paragraph 11 of the said section 315 is amended by striking out "as a lane solely or principally for the use of public transit motor vehicles or bicycles" in the second and third lines and inserting in lieu thereof "for the uses referred to in the said paragraphs".

s. 315,
par. 11,
amended

(4) Where a by-law has been passed by a local municipality for a purpose referred to in paragraph 9 of section 315 of the *Municipal Act*, as re-enacted by subsection (2) of this section, under a provision of the *Municipality of Metropolitan Toronto Act*, the *County of Oxford Act* or an Act establishing a regional municipality and the provision of the Act, under which the by-law was passed, is repealed, the by-law shall continue in full force and effect until amended or repealed, as if the provision of the Act under which the by-law was passed had not been repealed.

Transition

R.S.O. 1980,
cc. 302, 314,
365

13. Section 321 of the said Act is repealed and the following substituted therefor:

s. 321,
re-enacted

321. By-laws may be passed by the councils of all municipalities and by the boards of commissioners of police for providing that any person who contravenes any by-law of the council or of the board, as the case may be, passed under the authority of this Act, is guilty of an offence and for providing for the imposition of fines of not more than \$2,000 on every person who is convicted of an offence under any such by-law.

Power to
impose fines

Illegally
parked
vehicles,
owner's
liability

321a.—(1) A by-law passed for the purposes of section 321 may provide that, where a vehicle has been left parked, stopped or left standing in contravention of a by-law passed under this Act, the owner of the vehicle, notwithstanding that he was not the driver of the vehicle at the time of the contravention of the by-law, is guilty of an offence and is liable to the fine prescribed for the offence unless, at the time of the offence, the vehicle was in the possession of some person other than the owner without the owner's consent.

Payment
out of
court

(2) A by-law passed for the purposes of section 321 may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that a by-law related to the parking, standing or stopping of vehicles has been contravened.

s. 386 (8),
amended

- 14.** Subsection 386 (8) of the said Act is amended by striking out "chartered bank of Canada" in the fifth line and inserting in lieu thereof "bank named in Schedule A or B to the *Bank Act* (Canada)".

Commence-
ment

- 15.** This Act comes into force on the day it receives Royal Assent.

Short title

- 16.** The short title of this Act is the *Municipal Amendment Act, 1982*.

SECTION 14. The proposed amendment has the same effect as the amendments set out in sections 7 and 8 of the Bill.



An Act to amend the Municipal Act

1st Reading

March 11th, 1982

2nd Reading

June 25th, 1982

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 12

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LIBRARY
AUG 3 - 1982
UNIVERSITY OF TORONTO

An Act to amend the Municipal Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



BILL 12

1982

An Act to amend the Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (2) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 10 (2),
re-enacted

(2) The Municipal Board, upon the application of the Ministry or of not less than thirty inhabitants of a locality situated in territory without municipal organization and having a population of not less than fifty, may incorporate the inhabitants of the locality or a larger or smaller locality as an improvement district. Improvement
districts

2. The said Act is amended by adding thereto the following section: s. 39a,
enacted

39a.—(1) If not already vacant by virtue of any Act, the seat of a reeve or deputy reeve on the council of a local municipality becomes vacant if his seat on the county council is declared vacant by the county council. County
council
vacancies

(2) Where a county council declares the seat of one of its members to be vacant and, as a result of the declaration, the seat of that member on the council of a local municipality becomes vacant under subsection (1), the county council shall forthwith cause a copy of its declaration to be forwarded to the council of the local municipality and that council shall forthwith declare the seat of the member on that council to be vacant. Idem

3. Subsection 62 (1) of the said Act is repealed and the following substituted therefor: s. 62 (1),
re-enacted

(1) Where a vote is taken for any purpose and a member requests immediately prior or immediately subsequent to the taking of the vote that the vote be recorded, each member present, except a member who is disqualified from voting by any Act, shall announce his vote openly, and any failure to vote by a Recorded
votes

member who is not disqualified shall be deemed to be a negative vote and the clerk shall record each vote.

s. 82 (a),
re-enacted

4. Clause 82 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the municipality at such place of deposit as may be approved by the council.

s. 143 (4) (a),
amended

5. Clause 143 (4) (a) of the said Act is amended by striking out "ten" in the third line and inserting in lieu thereof "five".

s. 143a,
enacted

6. The said Act is further amended by adding thereto the following section:

Extendible
and
retractable
debentures

143a.—(1) Notwithstanding any other provision of this Act, a local municipality may provide in any money by-law for the issuing of debentures, which by-law shall not require the assent of the electors, that all or a portion of the debentures to be issued thereunder shall be payable on a fixed date not less than five years after the date of issue thereof with interest payable annually or semi-annually, subject to the obligation of the municipality,

(a) to extend the term of all or any of the debentures at the request of the holder thereof given to the treasurer of the municipality at any time or times fixed in the by-law prior to the maturity date of the debentures on the terms and subject to the conditions as to notice and other relevant matters set forth in the by-law, which debentures shall be known as extendible term debentures; or

(b) if the debentures have a maturity date longer than five years, to redeem all or any of the debentures at the request of a holder thereof at an earlier date or dates fixed in the by-law not earlier than five years after the date upon which the debentures are issued, on the terms and subject to the conditions as to notice and other relevant matters set forth in the by-law, which debentures shall be known as retractable term debentures.

Change of
interest
rate

- (2) A by-law passed under subsection (1) shall,

(a) with respect to extendible term debentures,

(i) fix the rate of interest payable thereon during the initial term, and

- (ii) provide that the rate of interest payable thereon with respect to any extended term,

- (A) shall be the same as the amount fixed under subclause (i),

- (B) shall be such different rate as is set out in the by-law, or

- (C) shall be a rate determined by a further by-law of the municipality passed not less than six months prior to the maturity date of the debentures; and

- (b) with respect to retractable term debentures,

- (i) fix the rate of interest payable thereon prior to the first early redemption date,

- (ii) provide that the rate of interest payable thereon with respect to any period commencing the day immediately following an early redemption date and expiring with the next early redemption date or with the maturity date, as the case may be,

- (A) shall be the same as the amount fixed under subclause (i),

- (B) shall be such different rate as is set out in the by-law, or

- (C) shall be a rate determined by a further by-law of the municipality passed not less than six months prior to the beginning of the period.

(3) Where a by-law passed under subsection (1) contains a provision authorized by sub-subclause (2) (a) (ii) (C) or (b) (ii) (C), notice of the change in the interest rate shall be sent by the treasurer of the municipality by prepaid mail at least seventy days prior to the date set for such change to the person, if any, in whose name the debenture is registered at the address shown in the Debenture Registry Book and shall be published at least sixty days prior to the maturity or redemption date in such manner as the by-law may provide. Notice of change

(4) A by-law passed under subsection (1) shall, with respect to extendible or retractable term debentures, provide for raising by a special rate on all the rateable property in the municipality, Mandatory provisions in by-law

- (a) in each year of the currency of the debentures, a sum sufficient to pay the interest thereon; and
- (b) in each year of the currency of the debentures, a specified amount to form a retirement fund for the debentures which amount shall be equal to or greater than the amount that would have been required to have been raised in each year in respect of principal if the principal amount of the debentures had been payable in equal annual instalments and the debentures had been issued for the maximum period of years that was approved by the Municipal Board for the repayment of debentures issued for the debt for which the debentures were issued, commencing on the date of the debentures,

to the extent that such sums have not been provided for by any special rate or rates imposed on persons or property made especially liable therefor by the by-law or by any other by-law or by-laws passed by the municipality or any other municipality in accordance with any general or special Act.

Retirement
fund

(5) The retirement fund referred to in clause (4) (b) shall be administered in all respects in the same manner as a sinking fund established under section 146, and subsections 146 (3) to (9) apply with necessary modifications to the retirement fund.

Debentures
to refund
existing
debentures
at maturity

(6) To the extent that it has not otherwise been raised or is not otherwise available, the money required to refund extendible or retractable term debentures issued under a by-law passed under this section shall be raised by the issue of debentures under the appropriate clause of subsection (7).

Exchange
and refund

(7) A municipality may, by by-law, authorize the issue of debentures,

- (a) to be exchanged for extendible term debentures extended by the holders thereof in accordance with this section and the by-law authorizing the issue of such debentures;
- (b) to refund at maturity extendible term debentures; and
- (c) to refund retractable term debentures at maturity and at early redemption dates.

Maximum
term of
debentures

(8) Debentures issued under subsection (7) shall be payable within the maximum period of years that was approved by the order of the Municipal Board for the repayment of debentures issued for the debt for which the debentures were issued, commencing on the date of the debentures that are being refunded or for which the exchange is being made.

(9) A by-law passed under subsection (7) shall provide for the amounts of principal and interest payable on the debentures to be raised by a rate or rates on the rateable property of the same class or classes of ratepayers as were subject to the rates levied to raise amounts to pay the principal and interest payable on the debentures that are being refunded or for which the exchange is being made.

Mandatory
provision
in by-law

(10) A by-law passed under subsection (2) to fix rates of interest or to change rates of interest shall express the rates in terms of a specific percentage rate and not in terms of a percentage rate based on another rate or amount to be ascertained in the future.

Method of
expressing
interest
rate

(11) The period by which an extendible term debenture may be extended under clause (1) (a) shall be not less than five years and the period shall expire within the maximum period of years that was approved by the Municipal Board for the repayment of debentures issued for the debt for which the extendible debenture was issued, commencing on the date of the extendible debenture.

Term of
extensions

(12) Early redemption dates fixed by a by-law passed under clause (1) (b) shall be at least five years apart and the last early redemption date shall precede the maturity date of the debentures by at least five years.

Early
redemption
dates

(13) Notwithstanding any other provision of this Act or any other Act, the assent of the electors and the approval of the Municipal Board is not required for the extending of debentures under clause (1) (a) or the issuing of debentures under subsection (7).

Assent of
electors,
O.M.B.
approval not
required

7. Clause 146 (3) (a) of the said Act is repealed and the following substituted therefor:

s. 146 (3) (a),
re-enacted

(a) with a bank named in Schedule A or B to the *Bank Act* (Canada) or a trust company that is registered under the *Loan and Trust Corporations Act*; or

1980-81,
c. 40 (Can.)
R.S.O. 1980,
c. 249

8. Subclause 169 (2) (a) (iii) of the said Act is amended by striking out "chartered bank to which the *Bank Act* (Canada) applies" in the fourth and fifth lines and inserting in lieu thereof "bank named in Schedule A or B to the *Bank Act* (Canada)".

s. 169 (2) (a)
(iii),
amended

9.—(1) Paragraph 23 of section 208 of the said Act is repealed and the following substituted therefor:

s. 208,
par. 23,
re-enacted

Agreements
respecting
use of
employees
and
equipment

s. 208,
par. 42 (a, b),
repealed

23. For providing for the use by any person of any of the employees or mechanical equipment of the municipality and for fixing the terms, conditions and charges therefor.

(2) Clauses (a) and (b) of paragraph 42 of the said section 208 are repealed.

s. 208,
par. 55 (d),
repealed

(3) Clause (d) of paragraph 55 of the said section 208 is repealed.

s. 210,
par. 45 (b, d),
repealed

10.—(1) Clauses (b) and (d) of paragraph 45 of section 210 of the said Act are repealed.

s. 210,
par. 117 (a),
repealed

(2) Clause (a) of paragraph 117 of the said section 210 is repealed.

s. 210,
par. 118(b),
repealed

(3) Clause (b) of paragraph 118 of the said section 210 is repealed.

s. 210,
par. 125 (b),
re-enacted

(4) Clause (b) of paragraph 125 of the said section 210 is repealed and the following substituted therefor:

(b) Subsection 147 (13) of the *Highway Traffic Act* applies with necessary modifications to a by-law passed under this paragraph.

s. 210,
par. 125 (d),
amended

(5) Clause (d) of paragraph 125 of the said section 210 is amended by inserting at the commencement thereof "Notwithstanding subsection 321a (2) and".

s. 243 (2),
re-enacted

11. Subsection 243 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) A statement submitted under subsection (1) shall also indicate the by-law or resolution and the statutory provision under the authority of which the remuneration or expenses were paid.

Statements
by local
boards

(3) Where in any year a local board or other body pays remuneration or expenses to a member of the local board or body who was appointed by a municipality or who is a member by virtue of his membership on a municipal council, the local board or body shall, on or before the 31st day of January in the next following year, submit to the treasurer of the municipality that the member represents a statement of the remuneration and expenses so paid and the statement shall be itemized to the extent required by the treasurer of the municipality.

s. 315,
par. 8 (b),
repealed

12.—(1) Clause (b) of paragraph 8 of section 315 of the said Act is repealed.

s. 315,
par. 9,
re-enacted

(2) Paragraph 9 of the said section 315 is repealed and the following substituted therefor:

9. For designating any lane on any road over which the municipality has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law, and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law and for prohibiting and regulating the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establish-
ment
of bus lanes

(a) For the purposes of this paragraph,

(i) “any other municipality” includes a metropolitan, regional and district municipality and the County of Oxford,

(ii) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the municipality, or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

(3) Paragraph 11 of the said section 315 is amended by striking out “as a lane solely or principally for the use of public transit motor vehicles or bicycles” in the second and third lines and inserting in lieu thereof “for the uses referred to in the said paragraphs”.

s. 315,
par. 11,
amended

(4) Where a by-law has been passed by a local municipality for a purpose referred to in paragraph 9 of section 315 of the *Municipal Act*, as re-enacted by subsection (2) of this section, under a provision of the *Municipality of Metropolitan Toronto Act*, the *County of Oxford Act* or an Act establishing a regional municipality and the provision of the Act, under which the by-law was passed, is repealed, the by-law shall continue in full force and effect until amended or repealed, as if the provision of the Act under which the by-law was passed had not been repealed.

Transition

R.S.O. 1980,
cc. 302, 314,
365

13. Section 321 of the said Act is repealed and the following substituted therefor:

s. 321,
re-enacted

321. By-laws may be passed by the councils of all municipalities and by the boards of commissioners of police for providing that any person who contravenes any by-law of the council or of the board, as the case may be, passed under the authority of this Act, is guilty of an offence and for providing for the imposition of fines of not more than \$2,000 on every person who is convicted of an offence under any such by-law.

Power to
impose fines

Illegally
parked
vehicles,
owner's
liability

321a.—(1) A by-law passed for the purposes of section 321 may provide that, where a vehicle has been left parked, stopped or left standing in contravention of a by-law passed under this Act, the owner of the vehicle, notwithstanding that he was not the driver of the vehicle at the time of the contravention of the by-law, is guilty of an offence and is liable to the fine prescribed for the offence unless, at the time of the offence, the vehicle was in the possession of some person other than the owner without the owner's consent.

Payment
out of
court

(2) A by-law passed for the purposes of section 321 may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that a by-law related to the parking, standing or stopping of vehicles has been contravened.

s. 386 (8),
amended

14. Subsection 386 (8) of the said Act is amended by striking out "chartered bank of Canada" in the fifth line and inserting in lieu thereof "bank named in Schedule A or B to the *Bank Act* (Canada)".

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is the *Municipal Amendment Act, 1982*.

BILL 12

An Act to amend the Municipal Act

1st Reading

March 11th, 1982

2nd Reading

June 25th, 1982

3rd Reading

July 6th, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

20N
356

BILL 13

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the County of Oxford Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



EXPLANATORY NOTES

SECTION 1. The section proposed to be added empowers the Lieutenant Governor in Council, on the recommendation of the Minister pursuant to an application by an area municipality, to alter the status of the municipality to that of a township, village, town or city municipality and to provide for other matters consequent on the alteration in status.

SECTION 2. The proposed subsection (2a) makes certain provisions of the *Municipal Act* applicable to the County Council. These provisions set out the grounds for disqualification of members of council, the situations giving rise to a vacancy in the office of a member of council, the requirement that a council declare a seat vacant when a vacancy occurs, the procedure for bringing a court action to have a seat declared vacant, and the requirement that a member take his declaration of office within a prescribed time period.

The proposed subsection (2b) sets out the procedure to be followed by a member wishing to resign.

BILL 13

1982

An Act to amend the County of Oxford Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a,
enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by an area municipality the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council. Alteration
of status
of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto. Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

2. Section 13 of the said Act is amended by adding thereto the following subsections: s. 13,
amended

(2a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the County Council. Application of
R.S.O. 1980,
c. 302

(2b) A member of the County Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the council does not accept his resignation it is of no effect. Resignation
from County
Council

Where
vacancy
in County
Council
or area
municipality
council

(2c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the County Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the County Council is declared vacant by the County Council.

Declaration
of vacancy

(2d) Where the County Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (2e), and subsection (2c) applies, the County Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(2e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (2d) the County Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 23 (a),
re-enacted

3. Clause 23 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the County at such place of deposit as may be approved by the County Council.

s. 38 (2),
re-enacted

4. Subsection 38 (2) of the said Act is repealed and the following substituted therefor:

Establish-
ment of
bus lanes,
etc.

(2) The County Council may by by-law designate any lane on any road over which it has jurisdiction as a lane solely or principally for use by public transit motor vehicles, taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit or regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified in the by-law.

Interpre-
tation

(3) For the purposes of subsection (2),

(a) "any other municipality" includes a metropolitan municipality and a regional municipality;

(b) "public transit motor vehicle" means a motor vehicle owned and operated by, for or on behalf of the County

The proposed subsection (2c) provides that where the seat of a member on the County Council becomes vacant, his seat on the council of the area municipality that he represents automatically becomes vacant, and vice versa. This proposed subsection would apply, for example, where a member missed meetings of the County Council for three successive months but was regularly attending meetings of the local council. Without this proposed subsection, the seat of the member on the County Council would become vacant but his seat on the council of the area municipality would not.

The proposed subsection (2d) provides that when the seat of a member is declared vacant by the County Council or by the council of the area municipality that he represents, the council declaring the vacancy shall immediately inform the other council of its declaration.

The proposed subsection (2e) provides that the seat of a member on the County Council or on the council of an area municipality shall be declared vacant if that council is informed that the other council has declared his seat on such other council to be vacant.

SECTION 3. Clause 23 (a) sets out one of the duties of the treasurer of the County and is set out below as it now reads showing underlined the words proposed to be deleted by the re-enactment:

23. Subject to subsection 22 (3), the treasurer shall,

(a) open an account or accounts in the name of the County in such of the chartered banks of Canada or at such other place of deposit as may be approved by the County Council.

SECTION 4. Subsection 38 (2) as it now reads is set out below:

(2) The County Council or the council of any area municipality may by by-law designate any lane on any road over which it has jurisdiction as a lane solely or principally for use by public transit motor vehicles and prohibit or regulate the use thereof by vehicles other than public transit vehicles to such extent and for such period or periods as may be specified, and for the purpose of this subsection, "public transit motor vehicle" means a motor vehicle owned and operated by, for or on behalf of the County or any area municipality as part of its passenger transportation service.

The effect of the re-enactment is to limit the authority granted under this subsection to the County Council; in addition, the class or type of motor vehicle that may be authorized to use a reserved lane has been broadened.

Area municipalities will be empowered under a proposed amendment to the *Municipal Act* to exercise substantially similar authority in respect of roads under their jurisdiction.

SECTION 5. Subsection 66 (1), proposed to be repealed, now reads as follows:

(1) The County may pass by-laws for granting aid for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on the business of public hospitals including municipal hospitals and other health care facilities in the County and may issue debentures therefor, and no area municipality shall exercise any such powers in respect of public hospitals including municipal hospitals.

The prohibition against an area municipality granting hospital aid is thus removed. Both the County and the area municipalities may grant aid to hospitals under section 113 of the *Municipal Act* and, accordingly, the specific authority to do so is not required in this Act. The proposed re-enactment of subsection 66 (2) incorporates some technical wording change necessitated by the repeal of subsection 66 (1) but its substance is not changed.

SECTION 6. The effect of the proposed re-enactment of subsection 85 (2) is to delete from the end of the subsection as it now reads the words "and for such reserves within such limits as to type and amount as the Ministry may approve". The provisions for the establishment of a reserve fund are set out in a proposed new section 91a and will correspond to those contained in the various Acts establishing regional municipalities.

SECTION 7. Provision is made for the establishment of a reserve fund; see also the Note to section 6 of the Bill.

or any other municipality as part of its passenger transportation service and such other class or classes of motor vehicles operated in connection with the provision of a passenger transportation service as may be specified in the by-law.

5. Subsections 66 (1) and (2) of the said Act are repealed and the following substituted therefor:

s. 66 (1),
repealed;
s. 66 (2),
re-enacted

(2) The County shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1975, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the County, and, if the County fails to pay such amounts before the due date, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Payment of
indebtedness
re hospital
aid

6. Subsection 85 (2) of the said Act is repealed and the following substituted therefor:

s. 85 (2),
re-enacted

(2) In preparing the estimates, the County Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

7. The said Act is further amended by adding thereto the following section:

s. 91a,
enacted

91a.—(1) The County Council may in each year provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds.

Reserve
fund

(2) The moneys raised for a reserve fund established under subsection (1) shall be paid into a special account and may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund.

Special
account

R.S.O. 1980,
c. 512

(3) The moneys raised for a reserve fund established under subsection (1) shall not be expended, pledged or applied to any purpose other than that for which the fund was established, unless approved by the County Council.

Application
of funds

Auditor's
report

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection (1).

s. 98 (7) (a),
amended

8.—(1) Clause 98 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 98,
amended

(2) Section 98 of the said Act is amended by adding thereto the following subsection:

Premiums
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 99a,
enacted

9. The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

99a. Section 143a of the *Municipal Act* applies with necessary modifications to the County.

s. 117 (1),
re-enacted

10. Subsection 117 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3) and section 190, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the County.

Commence-
ment

11.—(1) This Act, except sections 4 and 9, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 4 and 9 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *County of Oxford Amendment Act, 1982*.

SECTION 8.—Subsection 1. The amendment will decrease from ten years to five years the minimum period within which instalment debentures issued by the County may mature.

Subsection 2. The subsection proposed to be added permits a portion of any premium received on debentures issued by the County payable in a foreign currency to be set aside in a reserve fund to pay any premium on annual payments of principal and interest on the debentures.

SECTION 9. The provision of the *Municipal Act* made applicable to the County authorizes the issue of extendible and retractable term debentures.

SECTION 10. Sections 114, 115 and 122 are added as sections of the *Municipal Act* that apply to the County. Section 114 provides for offering awards and establishing competitions for awards; section 115 authorizes the provision of fellowships and scholarships, while section 122 authorizes agreements with the Crown respecting the use of the property or of the servants or officers of a municipality or the Crown (in right of Ontario) or the joint acquisition of property by the municipality and the Crown.

An Act to amend the
County of Oxford Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

BILL 13

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the County of Oxford Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



BILL 13

1982

An Act to amend the County of Oxford Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a,
enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by an area municipality the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council. Alteration
of status
of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto. Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

2. Section 13 of the said Act is amended by adding thereto the following subsections: s. 13,
amended

(2a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the County Council. Application of
R.S.O. 1980,
c. 302

(2b) A member of the County Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the council does not accept his resignation it is of no effect. Resignation
from County
Council

Where
vacancy
in County
Council
or area
municipality
council

(2c) If not already vacant by virtue of any general or special Act,

- (a) the seat of a member of the County Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and
- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the County Council is declared vacant by the County Council.

Declaration
of vacancy

(2d) Where the County Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (2e), and subsection (2c) applies, the County Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(2e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (2d) the County Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 23 (a),
re-enacted

3. Clause 23 (a) of the said Act is repealed and the following substituted therefor:

- (a) open an account or accounts in the name of the County at such place of deposit as may be approved by the County Council.

s. 38 (2),
re-enacted

4. Subsection 38 (2) of the said Act is repealed and the following substituted therefor:

Establish-
ment of
bus lanes,
etc.

(2) The County Council may by by-law designate any lane on any road over which it has jurisdiction as a lane solely or principally for use by public transit motor vehicles, taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit or regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified in the by-law..

Interpre-
tation

(3) For the purposes of subsection (2),

- (a) "any other municipality" includes a metropolitan municipality and a regional municipality;
- (b) "public transit motor vehicle" means a motor vehicle owned and operated by, for or on behalf of the County

or any other municipality as part of its passenger transportation service and such other class or classes of motor vehicles operated in connection with the provision of a passenger transportation service as may be specified in the by-law.

5. Subsections 66 (1) and (2) of the said Act are repealed and the following substituted therefor:

s. 66 (1),
repealed;
s. 66 (2),
re-enacted

(2) The County shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1975, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the County, and, if the County fails to pay such amounts before the due date, the area municipality may charge the County interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Payment of
indebtedness
re hospital
aid

6. Subsection 85 (2) of the said Act is repealed and the following substituted therefor:

s. 85 (2),
re-enacted

(2) In preparing the estimates, the County Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

7. The said Act is further amended by adding thereto the following section:

s. 91a,
enacted

91a.—(1) The County Council may in each year provide in the estimates for the establishment or maintenance of a reserve fund for any purpose for which it has authority to spend funds.

Reserve
fund

(2) The moneys raised for a reserve fund established under subsection (1) shall be paid into a special account and may be invested in such securities as a trustee may invest in under the *Trustee Act*, and the earnings derived from the investment of such moneys form part of the reserve fund.

Special
account

R.S.O. 1980,
c. 512

(3) The moneys raised for a reserve fund established under subsection (1) shall not be expended, pledged or applied to any purpose other than that for which the fund was established, unless approved by the County Council.

Application
of funds

Auditor's
report

(4) The auditor in his annual report shall report on the activities and position of each reserve fund established under subsection (1).

s. 98 (7) (a),
amended

8.—(1) Clause 98 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 98,
amended

(2) Section 98 of the said Act is amended by adding thereto the following subsection:

Premiums
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 99a,
enacted

9. The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

99a. Section 143a of the *Municipal Act* applies with necessary modifications to the County.

s. 117 (1),
re-enacted

10. Subsection 117 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3) and section 190, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the County.

Commence-
ment

11.—(1) This Act, except sections 4 and 9, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 4 and 9 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

12. The short title of this Act is the *County of Oxford Amendment Act, 1982*.

BILL 13

An Act to amend the
County of Oxford Act

1st Reading

March 11th, 1982

2nd Reading

June 25th, 1982

3rd Reading

July 6th, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

27N
356

Government
Publication

BILL 14

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY
2

An Act to revise the Municipal Conflict of Interest Act

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The Bill re-enacts and revises the *Municipal Conflict of Interest Act*, a code governing the entire field relating to conflicts of interest as they may arise in relation to members of municipal councils and local boards. The purpose of the Bill is to provide a clearer and more practical code than exists in the present Act while retaining the same basic purpose and procedure.

Among the principal features of the Bill are the following:

1. An expanded and improved interpretation section, specially with regard to the definitions of “local board”, “municipality” and “spouse”. (s. 1)
2. The relatives whose interests are deemed to be those of the member, have been clarified. (s. 3)
3. The exemptions to the application of the Act have been compiled and listed, and additional exemptions added, including “remote and insignificant” conflicts. (s. 4)
4. The duty of the member to declare his conflict of interest has been expanded so that the member, in addition, must declare the nature of the interest and where the meeting is not open to the public, must leave the meeting. (s. 5)
5. The declaration of interest is to be recorded in the minutes by the clerk or secretary. (s. 6).
6. The municipality when it applies to a judge for an order exempting it for the application of the Act, may do so on an *ex parte* basis. (s. 7 (2))
7. The time for bringing an application alleging contravention has been lengthened from expiration of the term of office to six years, following the event. (s. 9 (3))
8. Where a member has been found to contravene the Act, in addition to the existing sanctions, the judge may require the member to make restitution. (s. 10 (1))
9. The jurisdiction of the Divisional Court on an appeal has been expanded, to include an order for a new trial. (s. 11).
10. Proceedings to disqualify a member, declare a seat vacant or request restitution may only be made under provisions of the Act. (s. 13)
11. A municipality or local board may pay the legal costs of a member where the member has been found not to be in contravention of the Act. (s. 14)
12. Complementary amendments to other Acts where there is a conflict with a provision of the Bill or a redundancy. (ss. 16, 17, 18, 19, 20, 21)
13. Where proceedings were commenced, or circumstances giving rise to proceedings arose, during the currency of the existing Act, the proceedings shall be continued or commenced under the existing Act. (s. 23)

As with the existing Act, full disclosure and abstention from discussion and voting, rather than automatic disqualification, will be the basis for dealing with conflicts of interest.

The failure of a member of council or of a local board to disclose a pecuniary interest, whether direct or indirect, in any matter that comes before a meeting of the council or local board, including a special, committee or other meeting, will render the member liable, on the application of an elector to a county or district court judge, to having his seat declared vacant and being disqualified from being a member of any council or local board for a period of up to seven years and to make restitution.

Certain nominal conflict situations are excepted from the disclosure requirement; these generally are of the type where the interest of the member arises out of his relationship to the municipality as a member of the general public.

BILL 14

1982

An Act to revise the Municipal Conflict of Interest Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (b) “controlling interest” means the interest that a person has in a corporation when he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding;
- (c) “council” means the council of a municipality other than an improvement district and means the board of trustees of a municipality that is an improvement district;
- (d) “elector” means,
 - (i) in respect of a municipality, or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and
 - (ii) in respect of a school board, a person entitled to vote at the election of members of the school board;
- (e) “interest in common with electors generally” means a pecuniary interest in common with the electors within

the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part;

- (f) "judge" means a judge of the county or district court of the county or district in which the municipality or the administrative or head office of the local board is situate, or if, through illness or absence there is no judge of that court able to act, a judge of the county or district court of a county or district that adjoins the county or district in which the municipality or the administrative or head office of the local board is situate;
- (g) "local board" means a school board, board of directors of a children's aid society, committee of adjustment, committee of management of a community recreation centre, conservation authority, court of revision, land division committee, public utilities commission, public library board, board of management of an inter-urban administration area or of an improvement area, board of park management, board of health, board of commissioners of police, planning board, district welfare administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a home for the aged, suburban roads commission or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board, a local services board or a negotiating committee appointed under the *Municipal Boundary Negotiations Act, 1981*;
- (h) "meeting" includes any regular, special, committee or other meeting of a council or local board, as the case may be;
- (i) "member" means a member of a council or of a local board;
- (j) "municipality" means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes,

including school purposes, in territory without municipal organization, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board or a local services board;

- (k) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (l) “school board” means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board and includes a divisional board of education;
- (m) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;
- (n) “spouse” means either of a man and woman who,
 - (i) are married to each other,
 - (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
 - (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or
 - (iv) not being married to each other have cohabited,
 - (A) continuously for a period of not less than five years, or
 - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year.

Indirect
pecuniary
interest

2. For the purposes of this Act, a member has an indirect pecuniary interest in any matter in which the council or local board, as the case may be, is concerned, if,

(a) he or his nominee,

(i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,

(ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or

(iii) is a member of a body,

that has a pecuniary interest in the matter; or

(b) he is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter.

Interest
of certain
relatives
deemed that
of member

3. For the purposes of this Act, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member.

EXCEPTIONS

Where s.5
does not
apply

4. Section 5 does not apply to a pecuniary interest in any matter that a member may have,

(a) as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;

(b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;

(c) by reason of his purchasing or owning a debenture of the municipality or local board;

(d) by reason of his having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other electors;

- (e) by reason of having an interest in any property affected by a work under the *Drainage Act* or under the *Local Improvement Act*; R.S.O. 1980,
cc. 126, 250
- (f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*; R.S.O. 1980,
c. 31
- (g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;
- (h) by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of his being a member of a board, commission, or other body as an appointee of a council or local board;
- (i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member or under a by-law passed pursuant to section 252 of the *Municipal Act*, or as a member of a volunteer fire brigade, as the case may be; R.S.O. 1980,
c. 302
- (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or
- (k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.

DUTY OF MEMBER

5.—(1) Subject to subsection (2), where a member, either on his own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, he, When present
at meeting
at which
matter
considered

- (a) shall, prior to any consideration of the matter at the meeting, disclose his interest and the general nature thereof;

- (b) shall not take part in the consideration or discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

Where member
to leave
closed
meeting

(2) Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration.

When absent
from meeting
at which
matter
considered

(3) Where the interest of a member has not been disclosed as required by subsection (1) by reason of his absence from the meeting referred to therein, the member shall disclose his interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection (1).

RECORD OF DISCLOSURE

Disclosure
to be recorded
in minutes

6.—(1) Every declaration of interest and the general nature thereof made under section 5 shall, where the meeting is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the committee or local board, as the case may be.

Idem

(2) Every declaration of interest made under section 5, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public.

REMEDY FOR LACK OF QUORUM

Quorum
deemed
constituted

7.—(1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.

Application
to
judge

(2) Where in the circumstances mentioned in subsection (1) the remaining number of members who are not disabled from participating in the meeting is less than two, the council or local board may apply to a judge on an *ex parte* basis for an order authorizing the council or local board, as the case may be, to give consideration to, discuss and vote on the matter out of which the interest arises.

(3) The judge may, on an application brought under subsection (2), by order, declare that section 5 does not apply to the council or local board, as the case may be, in respect of the matter in relation to which the application is brought, and the council or local board thereupon may give consideration to, discuss and vote on the matter in the same manner as though none of the members had any interest therein, subject only to such conditions and directions as the judge may consider appropriate and so order.

Power of judge to declare s. 5 not to apply

ACTION WHERE CONTRAVENTION ALLEGED

8. The question of whether or not a member has contravened subsection 5 (1), (2) or (3) may be tried and determined by a judge.

Who may try alleged contravention of s. 5 (1-3)

9.—(1) Subject to subsection (3), an elector may, within six weeks after the fact comes to his knowledge that a member may have contravened subsection 5 (1), (2) or (3), apply to the judge by way of originating notice of motion in the manner prescribed by the rules of court for a determination of the question of whether the member has contravened subsection 5 (1), (2) or (3).

Who may apply to judge

(2) The elector in his notice of motion shall state the grounds for finding a contravention by the member of subsection 5 (1), (2) or (3).

Contents of notice of motion

(3) No application shall be brought under subsection (1) after the expiration of six years from the time at which the contravention is alleged to have occurred.

Time for bringing application limited

10.—(1) Subject to subsection (2), where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), he,

Power of judge to declare seat vacant, disqualify member and require restitution

(a) shall, in the case of a member, declare the seat of the member vacant; and

(b) may disqualify the member or former member from being a member during a period thereafter of not more than seven years; and

(c) may, where the contravention has resulted in personal financial gain, require the member or former member to make restitution to the party suffering the loss, or, where such party is not readily ascertainable, to the municipality or local board of which he is a member or former member.

Saving by
reason of
inadvertence
or *bona fide*
error

(2) Where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), if the judge finds that the contravention was committed through inadvertence or by reason of a *bona fide* error in judgment, the member is not subject to having his seat declared vacant and the member or former member is not subject to being disqualified as a member, as provided by subsection (1).

Member not
to be
suspended

(3) The authority to disqualify a member in subsection (1) does not include the right to suspend a member.

Appeal to
Divisional
Court

11.—(1) An appeal lies from any order made under section 10 to the Divisional Court in accordance with the rules of court.

Judgment
or new
trial

(2) The Divisional Court may give any judgment that ought to have been pronounced, in which case its decision is final, or the Divisional Court may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or another judge and, subject to any directions of the Divisional Court, the case shall be proceeded with as if there had been no appeal.

Appeal from
order or
new trial

(3) Where the case is remitted to a judge under subsection (2), an appeal lies from the order of the judge to the Divisional Court in accordance with the provisions of this section.

Proceedings
not
invalidated
but
voidable

12. The failure of any person to comply with subsection 5 (1), (2) or (3) does not of itself invalidate any proceedings in respect of any such matter but the proceedings in respect of such matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing such matter unless to make void the proceedings would adversely affect the rights of any person acquired under or by virtue of the proceedings who acted in good faith and without actual notice of the failure to comply with subsection 5 (1), (2) or (3).

Procedure
substituted
for *quo*
warranto
proceedings

13. Proceedings to declare a seat vacant or to disqualify a member or former member for conflict of interest, or to require a member or former member to make restitution where a contravention has resulted in personal financial gain, shall be had and taken only under the provisions of this Act.

GENERAL

Liability
insurance,
payment of
damages, etc.
R.S.O. 1980,
c. 302

14.—(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws for contracting for insurance to protect a member of the council or of any local board thereof, who has been found not to have

contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

(2) A local board has the same powers to provide insurance for ^{Local boards} or to make payments to or on behalf of its members as are conferred upon the council of a municipality under this section in respect of its members.

(3) A by-law passed under this section may provide that it ^{Former members} applies to a person who was a member at the time the circumstances giving rise to the proceeding occurred but who, prior to the judgment in the proceeding, has ceased to be a member.

15. In the event of conflict between any provision of this Act ^{Conflict with other Acts} and any provision of any general or special Act, the provision of this Act prevails.

16.—(1) Section 56 of the *Municipal Act*, being chapter 302 ^{R.S.O. 1980, c. 302, s. 56, re-enacted} of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

56. Subject to the *Municipal Conflict of Interest Act, 1982*, ^{Quorum 1982, c. . . .}

(a) a majority of the whole number of members required to constitute a council is necessary to form a quorum; and

(b) where a council consists of only five members, the concurrent votes of at least three of them are necessary to carry any resolution or other measure.

(2) Sections 63 and 64 of the said Act are repealed.

R.S.O. 1980,
c. 302,
ss. 63, 64,
repealed

(3) Subsection 248 (1) of the said Act, is amended by inserting after “may” in the first line “at any time” and by inserting after “proceeding” in the eighth line “except a proceeding brought under the *Municipal Conflict of Interest Act, 1982*”.

R.S.O. 1980,
c. 302,
s. 248 (1),
amended

17. Subsection 15 (2) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

R.S.O. 1980,
c. 66, s. 15 (2),
re-enacted

(2) A society shall be deemed to be a local board of each ^{When society a local board} municipality in which it has jurisdiction for the purposes of the *Ontario Municipal Employees Retirement System Act* and the *Municipal Conflict of Interest Act, 1982* and not for any other purpose.

R.S.O. 1980,
c. 348
1982, c. . . .

R.S.O. 1980,
c. 471,
s. 3 (6),
repealed

18. Subsection 3 (6) of the *Shoreline Property Assistance Act*, being chapter 471 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 421,
s. 65 (10),
repealed

19. Subsection 65 (10) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 85, s. 37,
repealed

20. Section 37 of the *Conservation Authorities Act*, being chapter 85 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 500,
s. 3 (2),
repealed

21. Subsection 3 (2) of the *Tile Drainage Act*, being chapter 500 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal of
R.S.O. 1980,
c. 305

22. The *Municipal Conflict of Interest Act* is repealed.

Where
proceedings
to be under
R.S.O. 1980,
c. 305

23.—(1) Notwithstanding section 22, where, before the coming into force of this Act, proceedings are commenced under the *Municipal Conflict of Interest Act* or circumstances arise, that give grounds for the commencement of proceedings under that Act, then the proceedings shall be continued or commenced and taken, as the case may be, under the *Municipal Conflict of Interest Act*, and not under this Act.

Saving

(2) Notwithstanding subsection (1), no proceeding may be commenced under the *Municipal Conflict of Interest Act* after the coming into force of this Act in respect of a member's failure to declare an interest acquired after a meeting referred to in subsection 2 (1) of that Act.

Commence-
ment

24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

25. The short title of this Act is the *Municipal Conflict of Interest Act, 1982*.

BILL 14

An Act to revise the Municipal
Conflict of Interest Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

Bill 14

An Act to revise the Municipal Conflict of Interest Act

The Hon. C. Bennett
Minister of Municipal Affairs and Housing

1st Reading March 11th, 1982

2nd Reading February 1st, 1983

3rd Reading

Royal Assent

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTES

The Bill re-enacts and revises the *Municipal Conflict of Interest Act*, a code governing the entire field relating to conflicts of interest as they may arise in relation to members of municipal councils and local boards. The purpose of the Bill is to provide a clearer and more practical code than exists in the present Act while retaining the same basic purpose and procedure.

Among the principal features of the Bill are the following:

1. An expanded and improved interpretation section, specially with regard to the definitions of "local board", "municipality" and "spouse". (s. 1)
2. The relatives whose interests are deemed to be those of the member, have been clarified. (s. 3)
3. The exemptions to the application of the Act have been compiled and listed, and additional exemptions added, including "remote and insignificant" conflicts. (s. 4)
4. The duty of the member to declare his conflict of interest has been expanded so that the member, in addition, must declare the nature of the interest and where the meeting is not open to the public, must leave the meeting. (s. 5)
5. The declaration of interest is to be recorded in the minutes by the clerk or secretary. (s. 6)
6. The municipality when it applies to a judge for an order exempting it for the application of the Act, may do so on an *ex parte* basis. (s. 7 (2))
7. The time for bringing an application alleging contravention has been lengthened from expiration of the term of office to six years, following the event. (s. 9 (3))
8. Where a member has been found to contravene the Act, in addition to the existing sanctions, the judge may require the member to make restitution. (s. 10 (1))
9. The jurisdiction of the Divisional Court on an appeal has been expanded, to include an order for a new trial. (s. 11)
10. Proceedings to disqualify a member, declare a seat vacant or request restitution may only be made under provisions of the Act. (s. 13)
11. A municipality or local board may pay the legal costs of a member where the member has been found not to be in contravention of the Act. (s. 14)
12. Complementary amendments to other Acts where there is a conflict with a provision of the Bill or a redundancy. (ss. 16, 17, 18, 19, 20, 21)
13. Where proceedings were commenced, or circumstances giving rise to proceedings arose, during the currency of the existing Act, the proceedings shall be continued or commenced under the existing Act. (s. 23)

As with the existing Act, full disclosure and abstention from discussion and voting, rather than automatic disqualification, will be the basis for dealing with conflicts of interest.

The failure of a member of council or of a local board to disclose a pecuniary interest, whether direct or indirect, in any matter that comes before a meeting of the council or local board, including a special, committee or other meeting, will render the member liable, on the application of an elector to a county or district court judge, to having his seat declared vacant and being disqualified from being a member of any council or local board for a period of up to seven years and to make restitution.

Certain nominal conflict situations are excepted from the disclosure requirement; these generally are of the type where the interest of the member arises out of his relationship to the municipality as a member of the general public.

Bill 14**1982**

**An Act to revise the
Municipal Conflict of Interest Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (b) “controlling interest” means the interest that a person has in a corporation when he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding;
- (c) “council” means the council of a municipality other than an improvement district and means the board of trustees of a municipality that is an improvement district;
- (d) “elector” means,
 - (i) in respect of a municipality, or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and
 - (ii) in respect of a school board, a person entitled to vote at the election of members of the school board;
- (e) “interest in common with electors generally” means a pecuniary interest in common with the electors

within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part;

- (f) “judge” means a judge of the county or district court of the county or district in which the municipality or the administrative or head office of the local board is situate, or if, through illness or absence there is no judge of that court able to act, a judge of the county or district court of a county or district that adjoins the county or district in which the municipality or the administrative or head office of the local board is situate;
- (g) “local board” means a school board, board of directors of a children’s aid society, committee of adjustment, committee of management of a community recreation centre, conservation authority, court of revision, land division committee, public utilities commission, public library board, board of management of an improvement area, board of park management, board of health, board of commissioners of police, planning board, district welfare administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a home for the aged, suburban roads commission or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board, a local services board or a negotiating committee appointed under the *Municipal Boundary Negotiations Act, 1981*;
- (h) “meeting” includes any regular, special, committee or other meeting of a council or local board, as the case may be;
- (i) “member” means a member of a council or of a local board;
- (j) “municipality” means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority

exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board or a local services board;

- (k) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (l) “school board” means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board and includes a divisional board of education;
- (m) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;
- (n) “spouse” means either of a man and woman who,
 - (i) are married to each other,
 - (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
 - (iii) have gone through a form of marriage¹ with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or
 - (iv) not being married to each other have cohabited,
 - (A) continuously for a period of not less than five years, or
 - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year.

Indirect
pecuniary
interest

2. For the purposes of this Act, a member has an indirect pecuniary interest in any matter in which the council or local board, as the case may be, is concerned, if,

- (a) he or his nominee,
 - (i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,
 - (ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or
 - (iii) is a member of a body,
that has a pecuniary interest in the matter; or
- (b) he is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter.

Interest of
certain
relatives
deemed that
of member

3. For the purposes of this Act, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member.

EXCEPTIONS

Where s. 5
does not
apply

4. Section 5 does not apply to a pecuniary interest in any matter that a member may have,

- (a) as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;
- (b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;
- (c) by reason of his purchasing or owning a debenture of the municipality or local board;
- (d) by reason of his having made a deposit with the municipality or local board, the whole or part of

which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other electors;

- (e) by reason of having an interest in any property affected by a work under the *Drainage Act* or under the *Local Improvement Act*; R.S.O. 1980, cc. 126, 250
- (f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*; R.S.O. 1980, c. 31
- (g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;
- (h) by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of his being a member of a board, commission, or other body as an appointee of a council or local board;
- (i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member or under a by-law passed pursuant to section 252 of the *Municipal Act*, or as a member of a volunteer fire brigade, as the case may be; R.S.O. 1980, c. 302
- (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or
- (k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.

DUTY OF MEMBER

5.—(1) Where a member, either on his own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, he, When present at meeting at which matter considered

- (a) shall, prior to any consideration of the matter at the meeting, disclose his interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

Where
member to
leave closed
meeting

(2) Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration.

When absent
from meeting
at which
matter
considered

(3) Where the interest of a member has not been disclosed as required by subsection (1) by reason of his absence from the meeting referred to therein, the member shall disclose his interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection (1).

RECORD OF DISCLOSURE

Disclosure to
be recorded
in minutes

6.—(1) Every declaration of interest and the general nature thereof made under section 5 shall, where the meeting is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the committee or local board, as the case may be.

Idem

(2) Every declaration of interest made under section 5, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public.

REMEDY FOR LACK OF QUORUM

Quorum
deemed
constituted

7.—(1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.

Application
to judge

(2) Where in the circumstances mentioned in subsection (1), the remaining number of members who are not disabled from participating in the meeting is less than two, the council or local

board may apply to a judge on an *ex parte* basis for an order authorizing the council or local board, as the case may be, to give consideration to, discuss and vote on the matter out of which the interest arises.

(3) The judge may, on an application brought under subsection (2), by order, declare that section 5 does not apply to the council or local board, as the case may be, in respect of the matter in relation to which the application is brought, and the council or local board thereupon may give consideration to, discuss and vote on the matter in the same manner as though none of the members had any interest therein, subject only to such conditions and directions as the judge may consider appropriate and so order.

Power of judge to declare s. 5 not to apply

ACTION WHERE CONTRAVENTION ALLEGED

8. The question of whether or not a member has contravened subsection 5 (1), (2) or (3) may be tried and determined by a judge.

Who may try alleged contravention of s. 5 (1-3)

9.—(1) Subject to subsection (3), an elector may, within six weeks after the fact comes to his knowledge that a member may have contravened subsection 5 (1), (2) or (3), apply to the judge by way of originating notice of motion in the manner prescribed by the rules of court for a determination of the question of whether the member has contravened subsection 5 (1), (2) or (3).

Who may apply to judge

(2) The elector in his notice of motion shall state the grounds for finding a contravention by the member of subsection 5 (1), (2) or (3).

Contents of notice of motion

(3) No application shall be brought under subsection (1) after the expiration of six years from the time at which the contravention is alleged to have occurred.

Time for bringing application limited

10.—(1) Subject to subsection (2), where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), he,

Power of judge to declare seat vacant, disqualify member and require restitution

- (a) shall, in the case of a member, declare the seat of the member vacant; and
- (b) may disqualify the member or former member from being a member during a period thereafter of not more than seven years; and
- (c) may, where the contravention has resulted in personal financial gain, require the member or former

member to make restitution to the party suffering the loss, or, where such party is not readily ascertainable, to the municipality or local board of which he is a member or former member.

Saving by
reason of
inadvertence
or *bona fide*
error

(2) Where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), if the judge finds that the contravention was committed through inadvertence or by reason of a *bona fide* error in judgment, the member is not subject to having his seat declared vacant and the member or former member is not subject to being disqualified as a member, as provided by subsection (1).

Member
not to be
suspended

(3) The authority to disqualify a member in subsection (1) does not include the right to suspend a member.

Appeal to
Divisional
Court

11.—(1) An appeal lies from any order made under section 10 to the Divisional Court in accordance with the rules of court.

Judgment or
new trial

(2) The Divisional Court may give any judgment that ought to have been pronounced, in which case its decision is final, or the Divisional Court may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or another judge and, subject to any directions of the Divisional Court, the case shall be proceeded with as if there had been no appeal.

Appeal from
order or new
trial

(3) Where the case is remitted to a judge under subsection (2), an appeal lies from the order of the judge to the Divisional Court in accordance with the provisions of this section.

Proceedings
not
invalidated
but voidable

12. The failure of any person to comply with subsection 5 (1), (2) or (3) does not of itself invalidate any proceedings in respect of any such matter but the proceedings in respect of such matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing such matter unless to make void the proceedings would adversely affect the rights of any person acquired under or by virtue of the proceedings who acted in good faith and without actual notice of the failure to comply with subsection 5 (1), (2) or (3).

Procedure
substituted
for *quo*
warranto
proceedings

13. Proceedings to declare a seat vacant or to disqualify a member or former member for conflict of interest, or to require a member or former member to make restitution where a contravention has resulted in personal financial gain, shall be had and taken only under the provisions of this Act.

GENERAL

14.—(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws for contracting for insurance to protect a member of the council or of any local board thereof, who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

Liability insurance, payment of damages, etc.
R.S.O. 1980, c. 302

(2) A local board has the same powers to provide insurance for or to make payments to or on behalf of its members as are conferred upon the council of a municipality under this section in respect of its members.

Local boards

(3) A by-law passed under this section may provide that it applies to a person who was a member at the time the circumstances giving rise to the proceeding occurred but who, prior to the judgment in the proceeding, has ceased to be a member.

Former members

15. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

Conflict with other Acts



16.—(1) Sections 63 and 64 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed.

R.S.O. 1980, c. 302, ss. 63, 64, repealed

(2) Subsection 248 (1) of the said Act is amended by inserting after “may” in the first line “at any time” and by inserting after “proceeding” in the eighth line “except a proceeding brought under the *Municipal Conflict of Interest Act, 1983*”.

Idem, s. 248 (1), amended
1983, c. ...



17. Subsection 15(2) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

R.S.O. 1980, c. 66, s. 15 (2), re-enacted

(2) A society shall be deemed to be a local board of each municipality in which it has jurisdiction for the purposes of the *Ontario Municipal Employees Retirement System Act* and the *Municipal Conflict of Interest Act, 1983* and not for any other purpose.

When society a local board
R.S.O. 1980, c. 348

R.S.O. 1980,
c. 471,
s. 3 (6),
repealed

18. Subsection 3 (6) of the *Shoreline Property Assistance Act*, being chapter 471 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 421,
s. 65 (10),
repealed

19. Subsection 65 (10) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 85, s. 37,
repealed

20. Section 37 of the *Conservation Authorities Act*, being chapter 85 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 500, s. 3
(2), repealed

21. Subsection 3 (2) of the *Tile Drainage Act*, being chapter 500 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal of
R.S.O. 1980,
c. 305

22. The *Municipal Conflict of Interest Act* is repealed.

Where
proceedings
to be under
R.S.O. 1980,
c. 305

23.—(1) Notwithstanding section 22, where, before the coming into force of this Act, proceedings are commenced under the *Municipal Conflict of Interest Act* or circumstances arise, that give grounds for the commencement of proceedings under that Act, then the proceedings shall be continued or commenced and taken, as the case may be, under the *Municipal Conflict of Interest Act*, and not under this Act, but no such proceedings shall be commenced more than one year after this Act comes into force.

Saving

(2) Notwithstanding subsection (1), no proceeding may be commenced under the *Municipal Conflict of Interest Act* after the coming into force of this Act in respect of a member's failure to declare an interest acquired after a meeting referred to in subsection 2 (1) of that Act.

Commence-
ment

24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

25. The short title of this Act is the *Municipal Conflict of Interest Act, 1983.*

CA 2 dN
XB
- 856

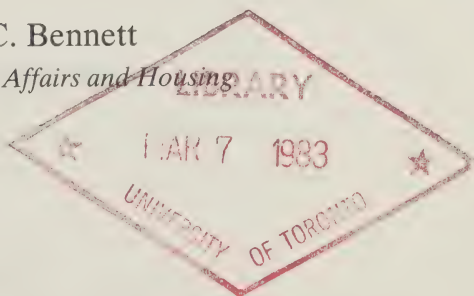
Bill 14

(Chapter 8
Statutes of Ontario, 1983)

An Act to revise the Municipal Conflict of Interest Act

The Hon. C. Bennett

Minister of Municipal Affairs and Housing



<i>1st Reading</i>	March 11th, 1982
<i>2nd Reading</i>	February 1st, 1983
<i>3rd Reading</i>	February 14th, 1983
<i>Royal Assent</i>	February 23rd, 1983

Bill 14**1982**

**An Act to revise the
Municipal Conflict of Interest Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;
- (b) “controlling interest” means the interest that a person has in a corporation when he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding;
- (c) “council” means the council of a municipality other than an improvement district and means the board of trustees of a municipality that is an improvement district;
- (d) “elector” means,
 - (i) in respect of a municipality, or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and
 - (ii) in respect of a school board, a person entitled to vote at the election of members of the school board;
- (e) “interest in common with electors generally” means a pecuniary interest in common with the electors

within the area of jurisdiction and, where the matter under consideration affects only part of the area of jurisdiction, means a pecuniary interest in common with the electors within that part;

- (f) “judge” means a judge of the country or district court of the county or district in which the municipality or the administrative or head office of the local board is situate, or if, through illness or absence there is no judge of that court able to act, a judge of the county or district court of a county or district that adjoins the county or district in which the municipality or the administrative or head office of the local board is situate;
- (g) “local board” means a school board, board of directors of a children’s aid society, committee of adjustment, committee of management of a community recreation centre, conservation authority, court of revision, land division committee, public utilities commission, public library board, board of management of an improvement area, board of park management, board of health, board of commissioners of police, planning board, district welfare administration board, trustees of a police village, board of trustees of a police village, board or committee of management of a home for the aged, suburban roads commission or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act in respect of any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or parts thereof, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board, a local services board or a negotiating committee appointed under the *Municipal Boundary Negotiations Act, 1981*;
- (h) “meeting” includes any regular, special, committee or other meeting of a council or local board, as the case may be;
- (i) “member” means a member of a council or of a local board;
- (j) “municipality” means the corporation of a county, city, town, village, township or improvement district or of a metropolitan, regional or district municipality and a board, commission or other local authority

exercising any power in respect of municipal affairs or purposes, including school purposes, in territory without municipal organization, but does not include a committee of management of a community recreation centre appointed by a school board, a local roads board or a local services board;

- (k) “parent” means a person who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;
- (l) “school board” means a board of education, public school board, secondary school board, Roman Catholic separate school board or Protestant separate school board and includes a divisional board of education;
- (m) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office;
- (n) “spouse” means either of a man and woman who,
 - (i) are married to each other,
 - (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
 - (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or
 - (iv) not being married to each other have cohabited,
 - (A) continuously for a period of not less than five years, or
 - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year.

Indirect
pecuniary
interest

2. For the purposes of this Act, a member has an indirect pecuniary interest in any matter in which the council or local board, as the case may be, is concerned, if,

(a) he or his nominee,

(i) is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public,

(ii) has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public, or

(iii) is a member of a body,

that has a pecuniary interest in the matter; or

(b) he is a partner of a person or is in the employment of a person or body that has a pecuniary interest in the matter.

Interest of
certain
relatives
deemed that
of member

3. For the purposes of this Act, the pecuniary interest, direct or indirect, of a parent or the spouse or any child of the member shall, if known to the member, be deemed to be also the pecuniary interest of the member.

EXCEPTIONS

Where s. 5
does not
apply

4. Section 5 does not apply to a pecuniary interest in any matter that a member may have,

(a) as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members;

(b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;

(c) by reason of his purchasing or owning a debenture of the municipality or local board;

(d) by reason of his having made a deposit with the municipality or local board, the whole or part of

which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other electors;

- (e) by reason of having an interest in any property affected by a work under the *Drainage Act* or under the *Local Improvement Act*; R.S.O. 1980,
cc. 126, 250
- (f) by reason of having an interest in farm lands that are exempted from taxation for certain expenditures under the *Assessment Act*; R.S.O. 1980,
c. 31
- (g) by reason of the member being eligible for election or appointment to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position;
- (h) by reason only of his being a director or senior officer of a corporation incorporated for the purpose of carrying on business for and on behalf of the municipality or local board or by reason only of his being a member of a board, commission, or other body as an appointee of a council or local board;
- (i) in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member or under a by-law passed pursuant to section 252 of the *Municipal Act*, or as a member of a volunteer fire brigade, as the case may be; R.S.O. 1980,
c. 302
- (j) by reason of the member having a pecuniary interest which is an interest in common with electors generally; or
- (k) by reason only of an interest of the member which is so remote or insignificant in its nature that it cannot reasonably be regarded as likely to influence the member.

DUTY OF MEMBER

5.—(1) Where a member, either on his own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, he, When
present at
meeting at
which matter
considered

- (a) shall, prior to any consideration of the matter at the meeting, disclose his interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

Where
member to
leave closed
meeting

(2) Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration.

When absent
from meeting
at which
matter
considered

(3) Where the interest of a member has not been disclosed as required by subsection (1) by reason of his absence from the meeting referred to therein, the member shall disclose his interest and otherwise comply with subsection (1) at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection (1).

RECORD OF DISCLOSURE

Disclosure to
be recorded
in minutes

6.—(1) Every declaration of interest and the general nature thereof made under section 5 shall, where the meeting is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the committee or local board, as the case may be.

Idem

(2) Every declaration of interest made under section 5, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public.

REMEDY FOR LACK OF QUORUM

Quorum
deemed
constituted

7.—(1) Where the number of members who, by reason of the provisions of this Act, are disabled from participating in a meeting is such that at that meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two.

Application
to judge

(2) Where in the circumstances mentioned in subsection (1), the remaining number of members who are not disabled from participating in the meeting is less than two, the council or local

board may apply to a judge on an *ex parte* basis for an order authorizing the council or local board, as the case may be, to give consideration to, discuss and vote on the matter out of which the interest arises.

(3) The judge may, on an application brought under subsection (2), by order, declare that section 5 does not apply to the council or local board, as the case may be, in respect of the matter in relation to which the application is brought, and the council or local board thereupon may give consideration to, discuss and vote on the matter in the same manner as though none of the members had any interest therein, subject only to such conditions and directions as the judge may consider appropriate and so order.

Power of judge to declare s. 5 not to apply

ACTION WHERE CONTRAVENTION ALLEGED

8. The question of whether or not a member has contravened subsection 5 (1), (2) or (3) may be tried and determined by a judge.

Who may try alleged contravention of s. 5 (1-3)

9.—(1) Subject to subsection (3), an elector may, within six weeks after the fact comes to his knowledge that a member may have contravened subsection 5 (1), (2) or (3), apply to the judge by way of originating notice of motion in the manner prescribed by the rules of court for a determination of the question of whether the member has contravened subsection 5 (1), (2) or (3).

Who may apply to judge

(2) The elector in his notice of motion shall state the grounds for finding a contravention by the member of subsection 5 (1), (2) or (3).

Contents of notice of motion

(3) No application shall be brought under subsection (1) after the expiration of six years from the time at which the contravention is alleged to have occurred.

Time for bringing application limited

10.—(1) Subject to subsection (2), where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), he,

Power of judge to declare seat vacant, disqualify member and require restitution

- (a) shall, in the case of a member, declare the seat of the member vacant; and
- (b) may disqualify the member or former member from being a member during a period thereafter of not more than seven years; and
- (c) may, where the contravention has resulted in personal financial gain, require the member or former

member to make restitution to the party suffering the loss, or, where such party is not readily ascertainable, to the municipality or local board of which he is a member or former member.

Saving by
reason of
inadvertence
or *bona fide*
error

(2) Where the judge determines that a member or a former member while he was a member has contravened subsection 5 (1), (2) or (3), if the judge finds that the contravention was committed through inadvertence or by reason of a *bona fide* error in judgment, the member is not subject to having his seat declared vacant and the member or former member is not subject to being disqualified as a member, as provided by subsection (1).

Member
not to be
suspended

(3) The authority to disqualify a member in subsection (1) does not include the right to suspend a member.

Appeal to
Divisional
Court

11.—(1) An appeal lies from any order made under section 10 to the Divisional Court in accordance with the rules of court.

Judgment or
new trial

(2) The Divisional Court may give any judgment that ought to have been pronounced, in which case its decision is final, or the Divisional Court may grant a new trial for the purpose of taking evidence or additional evidence and may remit the case to the trial judge or another judge and, subject to any directions of the Divisional Court, the case shall be proceeded with as if there had been no appeal.

Appeal from
order or new
trial

(3) Where the case is remitted to a judge under subsection (2), an appeal lies from the order of the judge to the Divisional Court in accordance with the provisions of this section.

Proceedings
not
invalidated
but voidable

12. The failure of any person to comply with subsection 5 (1), (2) or (3) does not of itself invalidate any proceedings in respect of any such matter but the proceedings in respect of such matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing such matter unless to make void the proceedings would adversely affect the rights of any person acquired under or by virtue of the proceedings who acted in good faith and without actual notice of the failure to comply with subsection 5 (1), (2) or (3).

Procedure
substituted
for *quo*
warranto
proceedings

13. Proceedings to declare a seat vacant or to disqualify a member or former member for conflict of interest, or to require a member or former member to make restitution where a contravention has resulted in personal financial gain, shall be had and taken only under the provisions of this Act.

GENERAL

14.—(1) Notwithstanding section 248 of the *Municipal Act*, the council of every municipality may at any time pass by-laws for contracting for insurance to protect a member of the council or of any local board thereof, who has been found not to have contravened section 5, against any costs or expenses incurred by the member as a result of a proceeding brought under this Act, and for paying on behalf of or reimbursing the member for any such costs or expenses.

Liability insurance, payment of damages, etc.
R.S.O. 1980, c. 302

(2) A local board has the same powers to provide insurance for or to make payments to or on behalf of its members as are conferred upon the council of a municipality under this section in respect of its members.

Local boards

(3) A by-law passed under this section may provide that it applies to a person who was a member at the time the circumstances giving rise to the proceeding occurred but who, prior to the judgment in the proceeding, has ceased to be a member.

Former members

15. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

Conflict with other Acts

16.—(1) Sections 63 and 64 of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, are repealed.

R.S.O. 1980, c. 302, ss. 63, 64, repealed

(2) Subsection 248 (1) of the said Act is amended by inserting after “may” in the first line “at any time” and by inserting after “proceeding” in the eighth line “except a proceeding brought under the *Municipal Conflict of Interest Act, 1983*”.

Idem, s. 248 (1), amended

1983, c. 8

17. Subsection 15(2) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

R.S.O. 1980, c. 66, s. 15 (2), re-enacted

(2) A society shall be deemed to be a local board of each municipality in which it has jurisdiction for the purposes of the *Ontario Municipal Employees Retirement System Act* and the *Municipal Conflict of Interest Act, 1983* and not for any other purpose.

When society a local board

R.S.O. 1980, c. 348

18. Subsection 3 (6) of the *Shoreline Property Assistance Act*, being chapter 471 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980, c. 471, s. 3 (6), repealed

R.S.O. 1980,
c. 421,
s. 65 (10),
repealed

19. Subsection 65 (10) of the *Public Transportation and Highway Improvement Act*, being chapter 421 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 85, s. 37,
repealed

20. Section 37 of the *Conservation Authorities Act*, being chapter 85 of the Revised Statutes of Ontario, 1980, is repealed.

R.S.O. 1980,
c. 500, s. 3
(2), repealed

21. Subsection 3 (2) of the *Tile Drainage Act*, being chapter 500 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal of
R.S.O. 1980,
c. 305

22. The *Municipal Conflict of Interest Act* is repealed.

Where
proceedings
to be under
R.S.O. 1980,
c. 305

23.—(1) Notwithstanding section 22, where, before the coming into force of this Act, proceedings are commenced under the *Municipal Conflict of Interest Act* or circumstances arise, that give grounds for the commencement of proceedings under that Act, then the proceedings shall be continued or commenced and taken, as the case may be, under the *Municipal Conflict of Interest Act*, and not under this Act, but no such proceedings shall be commenced more than one year after this Act comes into force.

Saving

(2) Notwithstanding subsection (1), no proceeding may be commenced under the *Municipal Conflict of Interest Act* after the coming into force of this Act in respect of a member's failure to declare an interest acquired after a meeting referred to in subsection 2 (1) of that Act.

Commence-
ment

24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

25. The short title of this Act is the *Municipal Conflict of Interest Act, 1983*.

128W
206

Government
Publication

BILL 15

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend certain Acts respecting Regional Municipalities

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



EXPLANATORY NOTES

The Bill amends the ten Acts that govern the various regional municipalities and is divided into the following Parts:

PART	PAGE
I—Ottawa-Carleton	1
II—Niagara	4
III—York	7
IV—Waterloo	10
V—Sudbury	13
VI—Peel	16
VII—Halton	20
VIII—Hamilton-Wentworth	23
IX—Durham	26
X—Haldimand-Norfolk	29

The following nine numbered paragraphs describe amendments that are common to all ten of the regional municipalities:

1. *Sections 1, 15, 26, 36, 45, 54, 63, 72, 81, 90.* The section proposed to be added empowers the Lieutenant Governor in Council, on the recommendation of the Minister pursuant to an application by an area municipality, to alter the status of the municipality to that of a township, village, town or city municipality and to provide for other matters consequent on the alteration in status.

2. *Sections 6, 17, 27, 37, 46, 55, 64, 73, 82, 91.* The proposed subsection (3a) makes certain provisions of the *Municipal Act* applicable to the Regional Council. These provisions set out the grounds for disqualification of members of council, the situations giving rise to a vacancy in the office of a member of council, the requirement that a council declare a seat vacant when a vacancy occurs, the procedure for bringing a court action to have a seat declared vacant, and the requirement that a member take his declaration of office within a prescribed time period.

The proposed subsection (3b) sets out the procedure to be followed by a member wishing to resign.

The proposed subsection (3c) provides that where the seat of a member on the Regional Council becomes vacant, his seat on the council of the area municipality that he represents automatically becomes vacant, and vice versa. This proposed subsection would apply, for example, where a member missed meetings of the Regional Council for three successive months but was regularly attending meetings of the local council. Without this proposed subsection, the seat of the member of the Regional Council would become vacant but his seat on the council of the area municipality would not.

The proposed subsection (3d) provides that when the seat of a member is declared vacant by the Regional Council or by the council of the area municipal-

ity that he represents, the council declaring the vacancy shall immediately inform the other council of its declaration.

The proposed subsection (3e) provides that the seat of a member on the Regional Council or on the council of an area municipality shall be declared vacant if that council is informed that the other council has declared his seat on such other council to be vacant. (Note that subsections (3c), (3d) and (3e) are not enacted in the *Regional Municipality of Niagara Act* where direct election to the Regional Council takes place.)

3. Sections 7, 18, 28, 38, 47, 56, 65, 74, 83, 92. The clause proposed to be re-enacted sets out one of the duties of the treasurer (or chief financial officer) of the Regional Corporation and set out below is an example of the clause as it now reads, showing underlined the words proposed to be deleted by the re-enactment:

(a) *open an account or accounts in the name of the Regional Corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved by the Regional Council.*

4. Sections 8, 19, 29, 39, 49, 57, 66, 75, 84, 93. The amendments proposed by these sections of the Bill enlarge, or, in the case of the regional municipalities of York, Waterloo and Sudbury, confer for the first time, the authority of the Regional Council to designate lanes on regional roads for the exclusive use of public transit motor vehicles and other classes of motor vehicles as defined in the by-law designating the reserved lanes. Area municipalities will be empowered under a proposed amendment to the *Municipal Act* to exercise substantially similar authority in respect of roads under their jurisdiction.

5. Sections 9, 21, 30, 40, 48, 58, 67, 76, 85, 94. The provisions proposed to be repealed confer authority on the Regional Council to grant aid to public hospitals. Both the Regional Council and area municipality councils may grant aid to hospitals under section 113 of the *Municipal Act* and accordingly the specific authority to do so is not required in the regional Acts. In the case of the regional municipalities of Waterloo, Sudbury, Peel, Halton, Hamilton-Wentworth, Durham and Haldimand-Norfolk, the area municipalities are now specifically prohibited from granting such aid and that prohibition will accordingly be removed. The responsibility of the Regional Corporation to assume existing debenture liability in respect of previously granted aid by an area municipality is retained.

6. Sections 10, 22, 31, 41, 50, 59, 68, 77, 86, 95. The effect of the proposed re-enactment is to delete from the end of the subsection as it now reads the words "and for such reserves within such limits as to type and amount as the Ministry may approve". Specific authority is found elsewhere in the regional Acts for the provision in the estimates for reserves and the words to be deleted are accordingly not required.

7. Section 11, subsections 23 (1), 32 (1), 42 (1), 51 (1), 60 (1), 69 (1), 78 (1), 87 (1), 96 (1). The amendments proposed by these provisions of the Bill will decrease from ten years to five years the minimum period within which instalment debentures issued by the Regional Corporation may mature.

8. Sections 12, 24, 33, 43, 52, 61, 70, 79, 88, 97. The section of the *Municipal Act* made applicable to the Regional Corporation authorizes the issue of extendible and retractable term debentures.

9. Sections 13, 25, 34, 44, 53, 62, 71, 80, 89, 98. Sections 114, 115 and 122 are added as sections of the *Municipal Act* that apply to the Regional Corporation. Section 114 provides for offering awards and establishing competitions for awards; section 115 authorizes the provision of fellowships and scholarships, while section 122 authorizes agreements with the Crown respecting the use of the

property or of the servants or officers of a municipality or the Crown (in right of Ontario) or the joint acquisition of property by the municipality and the Crown. In the case of Ottawa-Carleton and Sudbury reference is also made to s. 113 (inadvertently omitted in the 1980 revision of the statutes); this grant-making authority is restored effective August 1st, 1981, being the day on which the Revised Statutes of Ontario, 1980 came into force.

The following amendments relate to all the regional municipalities except Ottawa-Carleton:

Subsections 23 (2), 32 (2), 42 (2), 51 (2), 60 (2), 69 (2), 78 (2), 87 (2), 96 (2). The subsection proposed to be added permits a portion of any premium received on debentures issued by the Regional Corporation payable in a foreign currency to be set aside in a reserve fund to pay any premium on annual payments of principal and interest on the debentures.

A similar amendment was made to the *Regional Municipality of Ottawa-Carleton Act* at the 1980 session of the Legislature.

The following amendments relate to The Regional Municipality of Ottawa-Carleton:

SECTION 2. The subsection proposed to be repealed now reads as follows:

(6) The members of the Regional Council, other than the chairman, hold office only while they hold the offices that entitled them to such membership and until their successors take office.

The repeal is complementary to section 6 of the Bill enacting subsection 14 (3c) of the Act.

SECTIONS 3 AND 4. The head of the council of each area municipality shall be a mayor elected by general vote; those heads of council who hold the office of reeve on the coming into force of the above continue to be the head of council and are deemed to have been elected as mayor.

SECTION 5. The quorum of the Regional Council is increased from sixteen members to seventeen members to reflect the enlargement of the council to thirty-three members by an amendment made to the Act at the last session of the Legislature.

SECTION 14. Tax exemption is given to the lands and buildings within a designated regional convention centre while occupied for the purposes of a regional convention centre by the Regional Corporation, a board of management or an area municipality.

The following amendments relate to The Regional Municipality of Niagara:

SECTION 16. The subsection proposed to be repealed makes applicable to the Regional Council section 38 of the *Municipal Act*; that provision is now found in subsection 11 (3a) of the regional Act as enacted by section 17 of the Bill.

SECTION 20. The re-enactment of subsection 86 (1) of the Act removes the requirement of Municipal Board approval to the designation of a controlled-access road. The re-enactment of subsections 86 (6) and (7) makes uniform with other regional Acts the provisions respecting an appeal from an order of the Municipal Board approving or refusing to approve the closing of a road that runs into or intersects a controlled-access road.

The following section of the Bill relates only to the regional municipality mentioned:

SECTION 35. Certain lands in Kitchener are annexed to Waterloo and certain lands in Waterloo are annexed to Kitchener in The Regional Municipality of Waterloo.

BILL 15

1982

An Act to amend certain Acts respecting Regional Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

1. The *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

2. Subsection 4 (6) of the said Act is repealed.
3. The said Act is further amended by adding thereto the following section:

6a. Notwithstanding the provisions of any general or special Act or of any order of the Municipal Board, the council of every

s. 2a,
enacted

Alteration of
status of area
municipality

s. 4 (6),
repealed

s. 6a,
enacted

Head
of area
municipality
councils

area municipality shall include a mayor who shall be elected by a general vote of the electors of the area municipality and who shall be the head of council and no council of an area municipality shall include a reeve.

Reeve to
become
mayor
R.S.O. 1980,
c. 439

4. Upon the coming into force of section 3 of this Act a reeve of an area municipality as defined in the *Regional Municipality of Ottawa-Carleton Act* shall become the mayor of that area municipality and shall continue to be the head of its council and shall be deemed to have been elected mayor of that area municipality by a general vote of its electors.

s. 13 (1),
amended

5. Subsection 13 (1) of the said Act is amended by striking out "Sixteen" in the first line and inserting in lieu thereof "Seventeen".

s. 14,
amended

- 6.—(1) Section 14 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and the Council may refuse to accept his resignation in which case it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council

or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

(2) Subsection 14 (5) of the said Act is repealed.

s. 14 (5),
repealed

7. Clause 25 (a) of the said Act is repealed and the following substituted therefor:

s. 25 (a),
re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

8. Section 63 of the said Act is repealed and the following substituted therefor:

s. 63,
re-enacted

63.—(1) The Regional Council may by by-law designate any lane on any road over which the council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establishment of
bus lanes,
etc.

(2) For the purposes of subsection (1),

Interpre-
tation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

9. Section 105 of the said Act is repealed.

s. 105,
repealed

10. Subsection 120 (2) of the said Act is repealed and the following substituted therefor:

s. 120 (2),
re-enacted

(2) In preparing the estimates the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance to
be made in
estimates

11. Clause 133 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 133 (7) (a),
amended

s. 134a,
enacted

- 12.** The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302,
s. 143a

134a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 163 (1),
amended

- 13.—**(1) Subsection 163 (1) of the said Act is amended by inserting after "106" in the first line "113".

s. 163 (1),
amended

- (2) The said subsection 163 (1) is further amended by striking out "116, 121" in the first line and inserting in lieu thereof "114, 115, 116, 121 and 122".

s. 182,
amended

- 14.** Section 182 of the said Act is amended by adding thereto the following subsection:

Exemption
from
taxation

(13) The lands, buildings and structures included within a regional convention centre designated under subsection (2), including the auditoriums, eating establishments and parking garages on such lands, shall be exempt from taxation for municipal and school purposes and from charges for local improvements to the extent that they are occupied for the purposes of a regional convention centre by the Regional Corporation or a board of management established under subsection (3) or by an area municipality pursuant to an agreement under subsection (12).

PART II

REGIONAL MUNICIPALITY OF NIAGARA

s. 2a,
enacted

- 15.** The *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Alteration of
status of
area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

16. Subsection 7 (3) of the said Act is repealed.

s. 7 (3),
repealed

17.—(1) Section 11 of the said Act is amended by adding thereto the following subsections:

s. 11,
amended

(3a) Sections 38, 39, 40, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Application of
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council which shall then be vacant, but he shall not vote on a motion as to his own resignation and the council may refuse to accept his resignation in which case it is of no effect.

Resignation
from Regional
Council

(2) Subsection 11 (5) of the said Act is repealed.

s. 11 (5),
repealed

18. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

s. 21 (a),
re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

19. Section 76 of the said Act is repealed and the following substituted therefor:

s. 76,
re-enacted

76.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establish-
ment of
bus lanes,
etc.

(2) For the purposes of subsection (1),

Interpretation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commis-

sion, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 86 (1),
re-enacted

20.—(1) Subsection 86 (1) of the said Act is repealed and the following substituted therefor:

Controlled-
access roads

(1) The Regional Council may by by-law designate any road in the regional road system, or any portion thereof, as a controlled-access road.

s. 86 (6, 7),
re-enacted

(2) Subsections 86 (6) and (7) of the said Act are repealed and the following substituted therefor:

Appeal to
Divisional
Court

(6) Any person, including an area municipality, that has filed particulars of an objection or the Regional Corporation may, with the leave of the Divisional Court, appeal to that court from any order made under subsection (4).

Time for
application

(7) Application for leave to appeal shall be made within thirty days after the date of the determination or order of the Municipal Board subject to the rules of the court as to vacations.

s. 105,
repealed

21. Section 105 of the said Act is repealed.

s. 127 (2),
re-enacted

22. Subsection 127 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 142 (7) (a),
amended

23.—(1) Clause 142 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 142,
amended

(2) Section 142 of the said Act is amended by adding thereto the following subsection:

Premiums
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

- 24.** The said Act is further amended by adding thereto the following section: s. 143a,
enacted

143a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Application of
R.S.O. 1980,
c. 302, s. 143a

- 25.** Subsection 161 (1) of the said Act is repealed and the following substituted therefor: s. 161 (1),
re-enacted

(1) Sections 5, 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, paragraph 60 and subparagraph ii of paragraph 125 of section 210, section 253 and paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Application of
R.S.O. 1980,
c. 302

PART III

REGIONAL MUNICIPALITY OF YORK

- 26.** The *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a,
enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council. Alteration
of status
of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto. Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

- 27.—**(1) Section 11 of the said Act is amended by adding thereto the following subsections: s. 11,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council. Application of
R.S.O. 1980,
c. 302

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the council does not accept his resignation it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 11 (5, 6),
repealed

(2) Subsections 11 (5) and (6) of the said Act are repealed.

s. 21 (a),
re-enacted

28. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 74a,
enacted

29. The said Act is further amended by adding thereto the following section:

Establishment
of bus
lanes, etc.

74a.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such

number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

(2) For the purposes of subsection (1),

Interpre-
tation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

30. Section 101 of the said Act is repealed.

s. 101,
repealed

31. Subsection 120 (2) of the said Act is repealed and the following substituted therefor:

s. 120 (2),
re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be
made in
estimates

32.—(1) Clause 134 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 134 (7) (a),
amended

(2) Section 134 of the said Act is amended by adding thereto the following subsection:

s. 134,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

Premiums
on foreign
currency

33. The said Act is further amended by adding thereto the following section:

s. 135a,
enacted

135a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Application of
R.S.O. 1980,
c. 302, s. 143a

34. Subsection 153 (1) of the said Act is repealed and the following substituted therefor:

s. 153 (1),
re-enacted

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 105, 106, 110, 113, 114, 115, 116, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV AND XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

PART IV

REGIONAL MUNICIPALITY OF WATERLOO

s. 2,
amended

35.—(1) Section 2 of the *Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

Portion of
Kitchener
annexed to
Waterloo

(4a) That portion of the City of Kitchener described as follows is annexed to the City of Waterloo:

Parts 1, 7, 8 and 10 on a Reference Plan deposited in the Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58 R-3020.

Portion of
Waterloo
annexed to
Kitchener

(4b) That portion of the City of Waterloo described as follows is annexed to the City of Kitchener:

Part 5 on a Reference Plan deposited in the Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58 R-3020 and Part 1 on a Reference Plan deposited in the said Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58 R-3329.

s. 2 (5),
re-enacted

(2) Subsection 2 (5) of the said Act is repealed and the following substituted therefor:

Annexations
deemed by
Municipal
Board orders

(5) Subsection (8) applies with necessary modifications to the annexations provided for in subsections (2), (3), (4), (4a) and (4b).

s. 2a,
enacted

36. The said Act is amended by adding thereto the following section:

Alteration of
status of area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying

on the area municipality subsequent thereto, including the composition of its council.

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

37.—(1) Section 11 of the said Act is amended by adding thereto the following subsections:

s. 11,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Application of.
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Resignation
from Regional
Council

(3c) If not already vacant by virtue of any general or special Act,

Where
vacancy in
Regional
Council
or area
municipality
council

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Declaration
of vacancy

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

Idem

(2) Subsection 11 (5) of the said Act is repealed.

s. 11 (5),
repealed

s. 21 (a),
re-enacted

38. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 71a,
enacted

39. The said Act is further amended by adding thereto the following section:

Establishment
of bus
lanes, etc.

71a.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpre-
tation

(2) For the purposes of subsection (1),

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 99 (1),
repealed;
s. 99 (2),
re-enacted

40. Subsections 99 (1) and (2) of the said Act are repealed and the following substituted therefor:

Responsi-
bility of
Regional
Corporation
re hospital
aid

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1973, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 117 (2),
re-enacted

41. Subsection 117 (2) of the said Act is repealed and the following substituted therefor:

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

42.—(1) Clause 132 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 132 (7) (a),
amended

(2) Section 132 of the said Act is amended by adding thereto the following subsection:

s. 132,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

Premiums
on foreign
currency

43. The said Act is further amended by adding thereto the following section:

s. 133a,
enacted

133a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Application of
R.S.O. 1980,
c. 302, s. 143a

44. Subsection 151 (1) of the said Act is repealed and the following substituted therefor:

s. 151 (1),
re-enacted

(1) Sections 5, 105, 106, 110, 113, 114, 115, 116, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Application of
R.S.O. 1980,
c. 302

PART V

REGIONAL MUNICIPALITY OF SUDBURY

45. The *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 2a,
enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a

Alteration of
status of area
municipality

township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

s. 11,
amended

46.—(1) Section 11 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall

forthwith declare the seat of that member on the council to be vacant.

(2) Subsection 11 (5) of the said Act is repealed.

s. 11 (5),
repealed

47. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

s. 21 (a),
re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

48. Subsection 29 (1), (2) and (3) are repealed and the following substituted therefor:

s. 29 (1, 2),
repealed;
s. 29 (3),
re-enacted

(3) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Responsibility
of Regional
Corporation
re hospital
grants

49. The said Act is further amended by adding thereto the following section:

s. 55a,
enacted

55a.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establishment
of bus
lanes, etc.

(2) For the purposes of subsection (1),

Interpre-
tation

(a) "any other municipality" includes a metropolitan and regional municipality;

(b) "public transit motor vehicle" means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transport-

tation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 70 (2),
re-enacted

- 50.** Subsection 70 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 84 (7) (a),
amended

- 51.—**(1) Clause 84 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 84,
amended

- (2) Section 84 of the said Act is amended by adding thereto the following subsection:

Premium
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 85a,
enacted

- 52.** The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

85a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 103 (1),
amended

- 53.—**(1) Subsection 103 (1) of the said Act is amended by inserting after “106” in the first line “113”.

s. 103 (1),
amended

- (2) The said subsection 103 (1) is further amended by striking out “116, 121” in the first line and inserting in lieu thereof “114, 115, 116, 121 and 122”.

PART VI

REGIONAL MUNICIPALITY OF PEEL

s. 2a,
enacted

- 54.** The *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Alteration of
status of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

55.—(1) Section 12 of the said Act is amended by adding thereto the following subsections:

s. 12,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Application of
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Resignation
from Regional
Council

(3c) If not already vacant by virtue of any general or special Act,

Where
vacancy in
Regional
Council
or area
municipality
council

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Declaration
of vacancy

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 12 (5),
repealed

(2) Subsection 12 (5) of the said Act is repealed.

s. 22 (a),
re-enacted

56. Clause 22 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 37 (2),
re-enacted

57. Subsection 37 (2) of the said Act is repealed and the following substituted therefor:

Establishment
of bus
lanes, etc.

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpre-
tation

(3) For the purposes of subsection (2),

(a) "any other municipality" includes a metropolitan and regional municipality;

(b) "public transit motor vehicle" means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 63 (1),
repealed;
s. 63 (2),
re-enacted

58. Subsections 63 (1) and (2) of the said Act are repealed and the following substituted therefor:

Responsibility
of Regional
Corporation
re hospital
grants

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including

municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

- 59.** Subsection 84 (2) of the said Act is repealed and the following substituted therefor: s. 84 (2), re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year. Allowance to be made in estimates

- 60.—**(1) Clause 98 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”. s. 98 (7) (a), amended

- (2) Section 98 of the said Act is amended by adding thereto the following subsection: s. 98, amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law. Premium on foreign currency

- 61.** The said Act is further amended by adding thereto the following section: s. 99a, enacted

99a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302, s. 143a

- 62.** Subsection 117 (1) of the said Act is repealed and the following substituted therefor: s. 117 (1), re-enacted

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302

PART VII

REGIONAL MUNICIPALITY OF HALTON

s. 2a,
enacted

- 63.** The *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Alteration of
status of area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

s. 12,
amended

- 64.—(1)** Section 12 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3*d*) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3*e*), and subsection (3*c*) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council. Declaration of vacancy

(3*e*) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3*d*), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant. Idem

(2) Subsection 12 (5) of the said Act is repealed. s. 12 (5), repealed

65. Clause 22 (*a*) of the said Act is repealed and the following substituted therefor: s. 22 (*a*), re-enacted

(*a*) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

66. Subsection 37 (2) of the said Act is repealed and the following substituted therefor: s. 37 (2), re-enacted

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified. Establishment of bus lanes, etc.

(3) For the purposes of subsection (2), Interpretation

(*a*) “any other municipality” includes a metropolitan and regional municipality;

(*b*) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

67. Subsections 68 (1) and (2) of the said Act are repealed and the following substituted therefor: s. 68 (1), repealed;
s. 68 (2), re-enacted

Responsibility
of Regional
Corporation
re hospital
aid

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 89 (2),
re-enacted

68. Subsection 89 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 103 (7) (a),
amended

69.—(1) Clause 103 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 103,
amended

(2) Section 103 of the said Act is amended by adding thereto the following subsection:

Premium
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 104a,
enacted

70. The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

104a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 122 (1),
re-enacted

71. Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205,

paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

PART VIII

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

- 72.** The *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a,
enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council. Alteration of
status of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto. Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

- 73.**—(1) Section 11 of the said Act is amended by adding thereto the following subsections: s. 11,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council. Application of
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect. Resignation
from Regional
Council

(3c) If not already vacant by virtue of any general or special Act, Where
vacancy in
Regional
Council
or area
municipality
council

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an

area municipality is declared vacant by the council of that area municipality; and

- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 11 (5),
repealed

(2) Subsection 11 (5) of the said Act is repealed.

s. 21 (a),
re-enacted

74. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

- (a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 36 (2),
re-enacted

75. Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

Establishment
of bus
lanes, etc.

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpre-
tation

(3) For the purposes of subsection (2),

- (a) “any other municipality” includes a metropolitan and regional municipality;
- (b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commis-

sion, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

- 76.** Subsections 79 (1) and (3) of the said Act are repealed and the following substituted therefor:

s. 79 (1),
repealed;
s. 79 (3),
re-enacted

(3) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Responsibility
of Regional
Corporation
re hospital
aid

- 77.** Subsection 100 (2) of the said Act is repealed and the following substituted therefor:

s. 100 (2),
re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

- 78.—**(1) Clause 114 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 114 (7) (a),
amended

- (2) Section 114 of the said Act is amended by adding thereto the following subsection:

s. 114,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

Premium
on foreign
currency

- 79.** The said Act is further amended by adding thereto the following section:

s. 115a,
enacted

115a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Application of
R.S.O. 1980,
c. 302, s. 143a

s. 133 (1),
re-enacted

- 80.** Subsection 133 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

PART IX

REGIONAL MUNICIPALITY OF DURHAM

s. 2a,
enacted

- 81.** The *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Alteration of
status of area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

s. 12,
amended

- 82.—**(1) Section 12 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

(3c) If not already vacant by virtue of any general or special Act, Where
vacancy in
Regional
Council
or area
municipality
council

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council. Declaration
of vacancy

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant. Idem

(2) Subsection 12 (5) of the said Act is repealed. s. 12 (5),
repealed

83. Clause 22 (a) of the said Act is repealed and the following substituted therefor: s. 22 (a),
re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

84. Subsection 38 (2) of the said Act is repealed and the following substituted therefor: s. 38 (2),
re-enacted

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified. Establishment
of bus
lanes, etc.

(3) For the purposes of subsection (2), Interpre-
tation

(a) "any other municipality" includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 82 (1),
repealed;
s. 82 (2),
re-enacted

85. Subsections 82 (1) and (2) of the said Act are repealed and the following substituted therefor:

Responsibility
of Regional
Corporation
re hospital
aid

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 96 (2),
re-enacted

86. Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 110 (7) (a),
amended

87.—(1) Clause 110 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 110,
amended

(2) Section 110 of the said Act is amended by adding thereto the following subsection:

Premium
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 111a,
enacted

88. The said Act is further amended by adding thereto the following section:

111a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302, s. 143a

89. Subsection 129 (1) of the said Act is repealed and the following substituted therefor: s. 129 (1), re-enacted

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302

PART X

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

90. The *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a, enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council. Alteration of status of area municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto. Application of R.S.O. 1980, c. 302, ss. 17, 19, 22

- 91.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12, amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council. Application of R.S.O. 1980, c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the Resignation from Regional Council

minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and the Council may refuse to accept his resignation in which case it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

- (a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and
- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 12 (5),
repealed

(2) Subsection 12 (5) of the said Act is repealed.

s. 22 (a),
re-enacted

92. Clause 22 (a) of the said Act is repealed and the following substituted therefor:

- (a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 37 (2),
re-enacted

93. Subsection 37 (2) of the said Act is repealed and the following substituted therefor:

Establishment
of bus
lanes, etc.

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

(3) For the purposes of subsection (2),

Interpre-
tation

- (a) “any other municipality” includes a metropolitan and regional municipality;
- (b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

94. Subsections 57 (1) and (2) of the said Act are repealed and the following substituted therefor:

s. 57 (1),
repealed;
s. 57 (2),
re-enacted

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Responsibility
of Regional
Corporation
re hospital
aid

95. Subsection 78 (2) of the said Act is repealed and the following substituted therefor:

s. 78 (2),
re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

96.—(1) Clause 92 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 92 (7) (a),
amended

(2) Section 92 of the said Act is amended by adding thereto the following subsection:

s. 92,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto

Premium
on foreign
currency

shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 93a,
enacted

- 97.** The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

93a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 111 (1),
re-enacted

- 98.** Subsection 111 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50, 54 and 57 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315, section 326 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Commence-
ment

- 99.—**(1) This Act, except sections 8, 12 and 14, subsection 13 (1) and sections 19, 24, 33, 43 and 52, subsection 53 (1) and sections 57, 61, 66, 70, 75, 79, 84, 88, 93 and 97, comes into force on the day it receives Royal Assent.

Idem

- (2) Section 14 shall be deemed to have come into force on the 10th day of June, 1981.

Idem

- (3) Subsections 13 (1) and 53 (1) shall be deemed to have come into force on the 1st day of August, 1981.

Idem

- (4) Sections 8, 12, 19, 24, 33, 43, 52, 57, 61, 66, 70, 75, 79, 84, 88, 93 and 97 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 100.** The short title of this Act is the *Regional Municipalities Amendment Act, 1982*.

An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

(Government Bill)

BILL 15

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend certain Acts respecting Regional Municipalities

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing



BILL 15

1982

An Act to amend certain Acts respecting Regional Municipalities

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON

1. The *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

2. Subsection 4 (6) of the said Act is repealed.
3. The said Act is further amended by adding thereto the following section:

6a. Notwithstanding the provisions of any general or special Act or of any order of the Municipal Board, the council of every

s. 2a.
enacted

Alteration of
status of area
municipality

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

s. 4 (6),
repealed

s. 6a.
enacted

Head
of area
municipality
councils

area municipality shall include a mayor who shall be elected by a general vote of the electors of the area municipality and who shall be the head of council and no council of an area municipality shall include a reeve.

Reeve to
become
mayor
R.S.O. 1980,
c. 439

4. Upon the coming into force of section 3 of this Act a reeve of an area municipality as defined in the *Regional Municipality of Ottawa-Carleton Act* shall become the mayor of that area municipality and shall continue to be the head of its council and shall be deemed to have been elected mayor of that area municipality by a general vote of its electors.

s. 13 (1),
amended

5. Subsection 13 (1) of the said Act is amended by striking out "Sixteen" in the first line and inserting in lieu thereof "Seventeen".

s. 14,
amended

- 6.—(1) Section 14 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and the Council may refuse to accept his resignation in which case it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council

or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

(2) Subsection 14 (5) of the said Act is repealed.

s. 14 (5),
repealed

7. Clause 25 (a) of the said Act is repealed and the following substituted therefor:

s. 25 (a),
re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

8. Section 63 of the said Act is repealed and the following substituted therefor:

s. 63,
re-enacted

63.—(1) The Regional Council may by by-law designate any lane on any road over which the council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establishment of
bus lanes,
etc.

(2) For the purposes of subsection (1),

Interpretation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

9. Section 105 of the said Act is repealed.

s. 105,
repealed

10. Subsection 120 (2) of the said Act is repealed and the following substituted therefor:

s. 120 (2),
re-enacted

(2) In preparing the estimates the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance to
be made in
estimates

11. Clause 133 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 133 (7) (a),
amended

s. 134a,
enacted

- 12.** The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302,
s. 143a

134a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 163 (1),
amended

- 13.—**(1) Subsection 163 (1) of the said Act is amended by inserting after "106" in the first line "113".

s. 163 (1),
amended

- (2) The said subsection 163 (1) is further amended by striking out "116, 121" in the first line and inserting in lieu thereof "114, 115, 116, 121 and 122".

s. 182,
amended

- 14.** Section 182 of the said Act is amended by adding thereto the following subsection:

Exemption
from
taxation

(13) The lands, buildings and structures included within a regional convention centre designated under subsection (2), including the auditoriums, eating establishments and parking garages on such lands, shall be exempt from taxation for municipal and school purposes and from charges for local improvements to the extent that they are occupied for the purposes of a regional convention centre by the Regional Corporation or a board of management established under subsection (3) or by an area municipality pursuant to an agreement under subsection (12).

PART II

REGIONAL MUNICIPALITY OF NIAGARA

s. 2a,
enacted

- 15.** The *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Alteration of
status of
area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

16. Subsection 7 (3) of the said Act is repealed.

s. 7 (3),
repealed

17.—(1) Section 11 of the said Act is amended by adding thereto the following subsections:

s. 11,
amended

(3a) Sections 38, 39, 40, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Application of
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council which shall then be vacant, but he shall not vote on a motion as to his own resignation and the council may refuse to accept his resignation in which case it is of no effect.

Resignation
from Regional
Council

(2) Subsection 11 (5) of the said Act is repealed.

s. 11 (5),
repealed

18. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

s. 21 (a),
re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

19. Section 76 of the said Act is repealed and the following substituted therefor:

s. 76,
re-enacted

76.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establish-
ment of
bus lanes,
etc.

(2) For the purposes of subsection (1),

Interpretation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commis-

sion, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 86 (1),
re-enacted

20.—(1) Subsection 86 (1) of the said Act is repealed and the following substituted therefor:

Controlled-
access roads

(1) The Regional Council may by by-law designate any road in the regional road system, or any portion thereof, as a controlled-access road.

s. 86 (6, 7),
re-enacted

(2) Subsections 86 (6) and (7) of the said Act are repealed and the following substituted therefor:

Appeal to
Divisional
Court

(6) Any person, including an area municipality, that has filed particulars of an objection or the Regional Corporation may, with the leave of the Divisional Court, appeal to that court from any order made under subsection (4).

Time for
application

(7) Application for leave to appeal shall be made within thirty days after the date of the determination or order of the Municipal Board subject to the rules of the court as to vacations.

s. 105,
repealed

21. Section 105 of the said Act is repealed.

s. 127 (2),
re-enacted

22. Subsection 127 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 142 (7) (a),
amended

23.—(1) Clause 142 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 142,
amended

(2) Section 142 of the said Act is amended by adding thereto the following subsection:

Premiums
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

- 24.** The said Act is further amended by adding thereto the following section: s. 143a,
enacted

143a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Application of
R.S.O. 1980,
c. 302, s. 143a

- 25.** Subsection 161 (1) of the said Act is repealed and the following substituted therefor: s. 161 (1),
re-enacted

(1) Sections 5, 105, 106, 113, 114, 115, 116, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, paragraph 60 and subparagraph ii of paragraph 125 of section 210, section 253 and paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Application of
R.S.O. 1980,
c. 302

PART III

REGIONAL MUNICIPALITY OF YORK

- 26.** The *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a,
enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council. Alteration
of status
of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto. Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

- 27.—**(1) Section 11 of the said Act is amended by adding thereto the following subsections: s. 11,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council. Application of
R.S.O. 1980,
c. 302

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the council does not accept his resignation it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 11 (5, 6),
repealed

(2) Subsections 11 (5) and (6) of the said Act are repealed.

s. 21 (a),
re-enacted

28. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 74a,
enacted

29. The said Act is further amended by adding thereto the following section:

Establishment
of bus
lanes, etc.

74a.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such

number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

- (2) For the purposes of subsection (1),

Interpre-
tation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

- 30.** Section 101 of the said Act is repealed.

s. 101,
repealed

- 31.** Subsection 120 (2) of the said Act is repealed and the following substituted therefor:

s. 120 (2),
re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be
made in
estimates

- 32.—**(1) Clause 134 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 134 (7) (a),
amended

- (2) Section 134 of the said Act is amended by adding thereto the following subsection:

s. 134,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

Premiums
on foreign
currency

- 33.** The said Act is further amended by adding thereto the following section:

s. 135a,
enacted

135a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Application of
R.S.O. 1980,
c. 302, s. 143a

- 34.** Subsection 153 (1) of the said Act is repealed and the following substituted therefor:

s. 153 (1),
re-enacted

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 105, 106, 110, 113, 114, 115, 116, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV AND XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

PART IV

REGIONAL MUNICIPALITY OF WATERLOO

s. 2,
amended

35.—(1) Section 2 of the *Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

Portion of
Kitchener
annexed to
Waterloo

(4a) That portion of the City of Kitchener described as follows is annexed to the City of Waterloo:

Parts 1, 7, 8 and 10 on a Reference Plan deposited in the Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58 R-3020.

Portion of
Waterloo
annexed to
Kitchener

(4b) That portion of the City of Waterloo described as follows is annexed to the City of Kitchener:

Part 5 on a Reference Plan deposited in the Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58 R-3020 and Part 1 on a Reference Plan deposited in the said Registry Office for the Registry Division of Waterloo North (No. 58) as Plan 58 R-3329.

s. 2 (5),
re-enacted

(2) Subsection 2 (5) of the said Act is repealed and the following substituted therefor:

Annexations
deemed by
Municipal
Board orders

(5) Subsection (8) applies with necessary modifications to the annexations provided for in subsections (2), (3), (4), (4a) and (4b).

s. 2a,
enacted

36. The said Act is amended by adding thereto the following section:

Alteration of
status of area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying

on the area municipality subsequent thereto, including the composition of its council.

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

37.—(1) Section 11 of the said Act is amended by adding thereto the following subsections:

s. 11,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Application of
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Resignation
from Regional
Council

(3c) If not already vacant by virtue of any general or special Act,

Where
vacancy in
Regional
Council
or area
municipality
council

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Declaration
of vacancy

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

Idem

(2) Subsection 11 (5) of the said Act is repealed.

s. 11 (5),
repealed

s. 21 (a),
re-enacted

- 38.** Clause 21 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 71a,
enacted

- 39.** The said Act is further amended by adding thereto the following section:

Establishment
of bus
lanes, etc.

71a.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpre-
tation

(2) For the purposes of subsection (1),

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 99 (1),
repealed;
s. 99 (2),
re-enacted

- 40.** Subsections 99 (1) and (2) of the said Act are repealed and the following substituted therefor:

Responsi-
bility of
Regional
Corporation
re hospital
aid

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1973, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 117 (2),
re-enacted

- 41.** Subsection 117 (2) of the said Act is repealed and the following substituted therefor:

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year. Allowance to be made in estimates

42.—(1) Clause 132 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”. s. 132 (7) (a), amended

(2) Section 132 of the said Act is amended by adding thereto the following subsection: s. 132, amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law. Premiums on foreign currency

43. The said Act is further amended by adding thereto the following section: s. 133a, enacted

133a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302, s. 143a

44. Subsection 151 (1) of the said Act is repealed and the following substituted therefor: s. 151 (1), re-enacted

(1) Sections 5, 105, 106, 110, 113, 114, 115, 116, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 11, 12, 23, 24, 30, 50 and 54 of section 208, subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302

PART V

REGIONAL MUNICIPALITY OF SUDBURY

45. The *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a, enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a Alteration of status of area municipality

township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

s. 11,
amended

46.—(1) Section 11 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall

forthwith declare the seat of that member on the council to be vacant.

(2) Subsection 11 (5) of the said Act is repealed.

s. 11 (5),
repealed

47. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

s. 21 (a),
re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

48. Subsection 29 (1), (2) and (3) are repealed and the following substituted therefor:

s. 29 (1, 2),
repealed;
s. 29 (3),
re-enacted

(3) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Responsibility
of Regional
Corporation
re hospital
grants

49. The said Act is further amended by adding thereto the following section:

s. 55a,
enacted

55a.—(1) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Establishment
of bus
lanes, etc.

(2) For the purposes of subsection (1),

Interpre-
tation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transport-

tation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 70 (2),
re-enacted

50. Subsection 70 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 84 (7) (a),
amended

51.—(1) Clause 84 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 84,
amended

(2) Section 84 of the said Act is amended by adding thereto the following subsection:

Premium
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 85a,
enacted

52. The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

85a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 103 (1),
amended

53.—(1) Subsection 103 (1) of the said Act is amended by inserting after “106” in the first line “113”.

s. 103 (1),
amended

(2) The said subsection 103 (1) is further amended by striking out “116, 121” in the first line and inserting in lieu thereof “114, 115, 116, 121 and 122”.

PART VI

REGIONAL MUNICIPALITY OF PEEL

s. 2a,
enacted

54. The *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Alteration of
status of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

55.—(1) Section 12 of the said Act is amended by adding thereto the following subsections:

s. 12,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Application of
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Resignation
from Regional
Council

(3c) If not already vacant by virtue of any general or special Act,

Where
vacancy in
Regional
Council
or area
municipality
council

(a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and

(b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Declaration
of vacancy

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 12 (5),
repealed

(2) Subsection 12 (5) of the said Act is repealed.

s. 22 (a),
re-enacted

56. Clause 22 (a) of the said Act is repealed and the following substituted therefor:

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 37 (2),
re-enacted

57. Subsection 37 (2) of the said Act is repealed and the following substituted therefor:

Establishment
of bus
lanes, etc.

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpre-
tation

(3) For the purposes of subsection (2),

(a) "any other municipality" includes a metropolitan and regional municipality;

(b) "public transit motor vehicle" means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 63 (1),
repealed;
s. 63 (2),
re-enacted

58. Subsections 63 (1) and (2) of the said Act are repealed and the following substituted therefor:

Responsibility
of Regional
Corporation
re hospital
grants

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including

municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

- 59.** Subsection 84 (2) of the said Act is repealed and the following substituted therefor: s. 84 (2),
re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year. Allowance
to be made
in estimates

- 60.—**(1) Clause 98 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”. s. 98 (7) (a),
amended

- (2) Section 98 of the said Act is amended by adding thereto the following subsection: s. 98,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law. Premium
on foreign
currency

- 61.** The said Act is further amended by adding thereto the following section: s. 99a,
enacted

99a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Application of
R.S.O. 1980,
c. 302, s. 143a

- 62.** Subsection 117 (1) of the said Act is repealed and the following substituted therefor: s. 117 (1),
re-enacted

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Application of
R.S.O. 1980,
c. 302

PART VII

REGIONAL MUNICIPALITY OF HALTON

s. 2a,
enacted

- 63.** The *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Alteration of
status of area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

s. 12,
amended

- 64.**—(1) Section 12 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from Regional
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

- (a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and
- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council. Declaration of vacancy

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant. Idem

(2) Subsection 12 (5) of the said Act is repealed. s. 12 (5), repealed

65. Clause 22 (a) of the said Act is repealed and the following substituted therefor: s. 22 (a), re-enacted

(a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

66. Subsection 37 (2) of the said Act is repealed and the following substituted therefor: s. 37 (2), re-enacted

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified. Establishment of bus lanes, etc.

(3) For the purposes of subsection (2), Interpretation

(a) “any other municipality” includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

67. Subsections 68 (1) and (2) of the said Act are repealed and the following substituted therefor: s. 68 (1), repealed;
s. 68 (2), re-enacted

Responsibility
of Regional
Corporation
re hospital
aid

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 89 (2),
re-enacted

68. Subsection 89 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 103 (7) (a),
amended

69.—(1) Clause 103 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 103,
amended

(2) Section 103 of the said Act is amended by adding thereto the following subsection:

Premium
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 104a,
enacted

70. The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

104a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 122 (1),
re-enacted

71. Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205,

paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

PART VIII

REGIONAL MUNICIPALITY OF HAMILTON-WENTWORTH

- 72.** The *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

s. 2a,
enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Alteration of
status of area
municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

- 73.**—(1) Section 11 of the said Act is amended by adding thereto the following subsections:

s. 11,
amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Application of
R.S.O. 1980,
c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

Resignation
from Regional
Council

(3c) If not already vacant by virtue of any general or special Act,

Where
vacancy in
Regional
Council
or area
municipality
council

- (a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an

area municipality is declared vacant by the council of that area municipality; and

- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 11 (5),
repealed

(2) Subsection 11 (5) of the said Act is repealed.

s. 21 (a),
re-enacted

74. Clause 21 (a) of the said Act is repealed and the following substituted therefor:

- (a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 36 (2),
re-enacted

75. Subsection 36 (2) of the said Act is repealed and the following substituted therefor:

Establishment
of bus
lanes, etc.

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

Interpre-
tation

(3) For the purposes of subsection (2),

- (a) “any other municipality” includes a metropolitan and regional municipality;
- (b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commis-

sion, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

- 76.** Subsections 79 (1) and (3) of the said Act are repealed and the following substituted therefor:

s. 79 (1),
repealed;
s. 79 (3),
re-enacted

(3) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Responsibility
of Regional
Corporation
re hospital
aid

- 77.** Subsection 100 (2) of the said Act is repealed and the following substituted therefor:

s. 100 (2),
re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

- 78.—**(1) Clause 114 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 114 (7) (a),
amended

- (2) Section 114 of the said Act is amended by adding thereto the following subsection:

s. 114,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

Premium
on foreign
currency

- 79.** The said Act is further amended by adding thereto the following section:

s. 115a,
enacted

115a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

Application of
R.S.O. 1980,
c. 302, s. 143a

s. 133 (1),
re-enacted

- 80.** Subsection 133 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

PART IX

REGIONAL MUNICIPALITY OF DURHAM

s. 2a,
enacted

- 81.** The *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Alteration of
status of area
municipality

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council.

Application of
R.S.O. 1980,
c. 302,
ss. 17, 19, 22

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto.

s. 12,
amended

- 82.—**(1) Section 12 of the said Act is amended by adding thereto the following subsections:

Application of
R.S.O. 1980,
c. 302

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council.

Resignation
from
Council

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and if the Council does not accept his resignation it is of no effect.

- (3c) If not already vacant by virtue of any general or special Act, Where vacancy in Regional Council or area municipality council
- (a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and
- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council. Declaration of vacancy

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant. Idem

(2) Subsection 12 (5) of the said Act is repealed. s. 12 (5), repealed

83. Clause 22 (a) of the said Act is repealed and the following substituted therefor: s. 22 (a), re-enacted

- (a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

84. Subsection 38 (2) of the said Act is repealed and the following substituted therefor: s. 38 (2), re-enacted

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified. Establishment of bus lanes, etc.

(3) For the purposes of subsection (2), Interpretation

- (a) "any other municipality" includes a metropolitan and regional municipality;

(b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

s. 82 (1),
repealed;
s. 82 (2),
re-enacted

85. Subsections 82 (1) and (2) of the said Act are repealed and the following substituted therefor:

Responsibility
of Regional
Corporation
re hospital
aid

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

s. 96 (2),
re-enacted

86. Subsection 96 (2) of the said Act is repealed and the following substituted therefor:

Allowance
to be made
in estimates

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

s. 110 (7) (a),
amended

87.—(1) Clause 110 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 110,
amended

(2) Section 110 of the said Act is amended by adding thereto the following subsection:

Premium
on foreign
currency

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 111a,
enacted

88. The said Act is further amended by adding thereto the following section:

111a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302, s. 143a

89. Subsection 129 (1) of the said Act is repealed and the following substituted therefor: s. 129 (1), re-enacted

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50 and 54 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation. Application of R.S.O. 1980, c. 302

PART X

REGIONAL MUNICIPALITY OF HALDIMAND-NORFOLK

90. The *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 2a, enacted

2a.—(1) Notwithstanding any Act, upon the recommendation of the Minister pursuant to an application by the council of an area municipality, the Lieutenant Governor in Council may, by order, alter the status of the area municipality to that of a township, village, town or city municipality, and may direct the new name that the area municipality will bear when its status is altered and the date when the alteration of status will take effect and may provide for any matters that are considered necessary or desirable for implementing the alteration of status or for carrying on the area municipality subsequent thereto, including the composition of its council. Alteration of status of area municipality

(2) Where an order is made under subsection (1), sections 17, 19 and 22 of the *Municipal Act* apply, with necessary modifications, and the provisions of any special Act that applied to the area municipality prior to the alteration of its status continue to apply to it subsequent thereto. Application of R.S.O. 1980, c. 302, ss. 17, 19, 22

91.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12, amended

(3a) Sections 38, 39, 43, 44 and 97 of the *Municipal Act* apply with necessary modifications to the Regional Council. Application of R.S.O. 1980, c. 302

(3b) A member of the Regional Council with the consent of the majority of the members present at a meeting, entered upon the Resignation from Regional Council

minutes of it, may resign his office and his seat in the Council which shall then be vacant, but he shall not vote on a motion as to his own resignation and the Council may refuse to accept his resignation in which case it is of no effect.

Where
vacancy in
Regional
Council
or area
municipality
council

(3c) If not already vacant by virtue of any general or special Act,

- (a) the seat of a member of the Regional Council becomes vacant if the seat of that member on the council of an area municipality is declared vacant by the council of that area municipality; and
- (b) the seat of a member of the council of an area municipality becomes vacant if the seat of that member on the Regional Council is declared vacant by the Regional Council.

Declaration
of vacancy

(3d) Where the Regional Council or the council of an area municipality declares the seat of a member to be vacant, other than under subsection (3e), and subsection (3c) applies, the Regional Council or the area council, as the case may be, shall forthwith cause a copy of its declaration to be sent to the other council.

Idem

(3e) Upon receiving a copy of a declaration of a vacancy in respect of a member under subsection (3d), the Regional Council or the council of the area municipality, as the case may be, shall forthwith declare the seat of that member on the council to be vacant.

s. 12 (5),
repealed

(2) Subsection 12 (5) of the said Act is repealed.

s. 22 (a),
re-enacted

92. Clause 22 (a) of the said Act is repealed and the following substituted therefor:

- (a) open an account or accounts in the name of the Regional Corporation at such place of deposit as may be approved by the Regional Council.

s. 37 (2),
re-enacted

93. Subsection 37 (2) of the said Act is repealed and the following substituted therefor:

Establishment
of bus
lanes, etc.

(2) The Regional Council may by by-law designate any lane on any road over which the Council has jurisdiction as a lane solely or principally for use by public transit motor vehicles, or any class or classes thereof as may be defined in the by-law and by taxicabs and by private motor vehicles carrying such number of passengers as may be specified in the by-law, and prohibit and regulate the use thereof by all other vehicles to such extent and for such period or periods as may be specified.

- (3) For the purposes of subsection (2),

Interpre-
tation

- (a) “any other municipality” includes a metropolitan and regional municipality;
- (b) “public transit motor vehicle” means any motor vehicle operated by, for or on behalf of the Regional Corporation or any other municipality, or by a transit commission, in connection with a regular passenger transportation service and includes such other motor vehicles operated in connection with a regular passenger transportation service as may be specified in the by-law.

- 94.** Subsections 57 (1) and (2) of the said Act are repealed and the following substituted therefor:

s. 57 (1),
repealed;
s. 57 (2),
re-enacted

(2) The Regional Corporation shall pay to any area municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding indebtedness of the area municipality in respect of aid granted by a local municipality prior to the 1st day of January, 1974, for the construction, erection, establishment, acquisition, maintenance, equipping and carrying on of the business of public hospitals including municipal hospitals and other health care facilities in the Regional Area, and, if the Regional Corporation fails to pay such amounts before the due date, the area municipality may charge the Regional Corporation interest at the rate of 15 per cent per annum thereon, or such lower rate as the council of the area municipality determines, from such date until payment is made.

Responsibility
of Regional
Corporation
re hospital
aid

- 95.** Subsection 78 (2) of the said Act is repealed and the following substituted therefor:

s. 78 (2),
re-enacted

(2) In preparing the estimates, the Regional Council shall make due allowance for a surplus of any previous year that will be available during the current year and shall provide for any operating deficit of any previous year.

Allowance
to be made
in estimates

- 96.—**(1) Clause 92 (7) (a) of the said Act is amended by striking out “ten” in the third line and inserting in lieu thereof “five”.

s. 92 (7) (a),
amended

- (2) Section 92 of the said Act is amended by adding thereto the following subsection:

s. 92,
amended

(21a) Where a by-law passed under this section provides that the debentures are payable in a currency described in clause (20) (b), (c) or (d) the by-law may provide that any portion of the premium which may be received on the currency in which the debentures are payable that is not required to pay the cost of the work authorized under the by-law and charges incidental thereto

Premium
on foreign
currency

shall be set aside in a reserve fund to be used to pay the premium on the annual payments of principal and interest on the debentures issued under the by-law.

s. 93a,
enacted

- 97.** The said Act is further amended by adding thereto the following section:

Application of
R.S.O. 1980,
c. 302, s. 143a

93a. Section 143a of the *Municipal Act* applies with necessary modifications to the Regional Corporation.

s. 111 (1),
re-enacted

- 98.** Subsection 111 (1) of the said Act is repealed and the following substituted therefor:

Application of
R.S.O. 1980,
c. 302

(1) Sections 5, 84, 85, 90, 92, 93, 94 and 96, subsections 98 (1), (4) and (5), sections 99, 100, 105, 106, 109, 113, 114, 115, 116, 117, 121 and 122, subsection 165 (3), sections 190 and 205, paragraphs 3, 10, 11, 12, 23, 24, 30, 45, 46, 47, 48, 49, 50, 54 and 57 of section 208, subparagraph iii of paragraph 62 and subparagraph ii of paragraph 125 of section 210, paragraph 10 of section 315, section 326 and Parts XIII, XIV, XV and XIX of the *Municipal Act* apply with necessary modifications to the Regional Corporation.

Commence-
ment

- 99.—(1)** This Act, except sections 8, 12 and 14, subsection 13 (1) and sections 19, 24, 33, 43 and 52, subsection 53 (1) and sections 57, 61, 66, 70, 75, 79, 84, 88, 93 and 97, comes into force on the day it receives Royal Assent.

Idem

- (2) Section 14 shall be deemed to have come into force on the 10th day of June, 1981.

Idem

- (3) Subsections 13 (1) and 53 (1) shall be deemed to have come into force on the 1st day of August, 1981.

Idem

- (4) Sections 8, 12, 19, 24, 33, 43, 52, 57, 61, 66, 70, 75, 79, 84, 88, 93 and 97 come into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

- 100.** The short title of this Act is the *Regional Municipalities Amendment Act, 1982*.

An Act to amend certain Acts
respecting Regional Municipalities

1st Reading

March 11th, 1982

2nd Reading

June 29th, 1982

3rd Reading

June 30th, 1982

THE HON. C. BENNETT
Minister of Municipal Affairs and Housing

56
BILL 16

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Education Act

MR. VAN HORNE

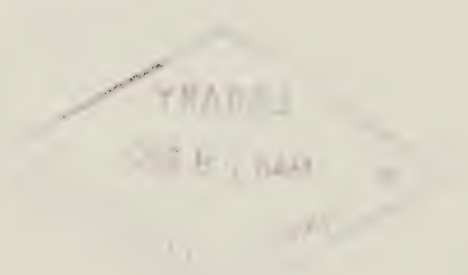


TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The new subsection provides that no child shall be admitted to an elementary school unless a certificate respecting the child's immunization against measles has been produced.



BILL 16

1982

An Act to amend the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 32 of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsection: s. 32,
amended

(3a) No child shall be admitted to an elementary school unless the child's parent or guardian produces a legally qualified medical practitioner's certificate that, Measles-
immunization

(a) the child has been immunized against measles;

(b) the child has recovered from measles;

(c) on medical grounds it is inadvisable to immunize the child against measles; or

(d) in the medical practitioner's opinion, the religious or other beliefs of the parent or guardian forbid immunization of the child.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is the *Education Amendment Act, 1982*. Short title

BILL 16

An Act to amend the
Education Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

1291W
2
1356

BILL 17

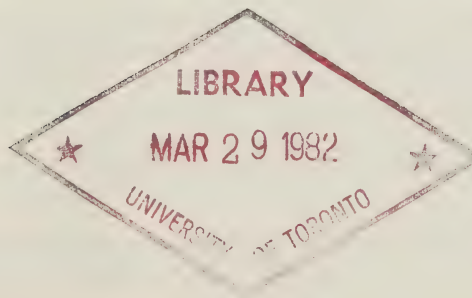
Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to require the Use of Child Car Seats
or Restraint Systems**

Ms. BRYDEN



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill would require that children under the age of five years or weighing less than 20 kilograms be secured in child car seats or restraint systems when travelling as passengers in motor vehicles.

LIBRARY

MAY 19 1988

BILL 17

1982

An Act to require the Use of Child Car Seats or Restraint Systems

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 90 (6) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by striking out “two years” in the third line and inserting in lieu thereof “five years, or the weight of 20 kilograms”. s. 90 (6),
amended

- (2) Section 90 of the said Act is amended by adding thereto the following subsection: s. 90,
amended

(6a) No person shall drive on a highway a motor vehicle in which there is a passenger under the age of 5 years or weighing less than 20 kilograms unless the passenger is occupying and properly secured in a child car seat or restraint system. Child to be
restrained

- (3) Clause 90 (7) (c) of the said Act is repealed. s. 90 (7) (c),
repealed

- (4) Section 90 of the said Act is further amended by adding thereto the following subsection: s. 90,
amended

(7a) Subsection (6a) does not apply where the passenger's parent or guardian is the holder of a certificate signed by a legally qualified medical practitioner certifying that it is not practicable to secure the passenger in a child car seat or restraint system. Exception

- (5) Clause 90 (8) (a) of the said Act is repealed and the following substituted therefor: s. 90 (8) (a),
re-enacted

(a) prescribing the specifications of child car seats and restraint systems in motor vehicles.

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

3. The short title of this Act is the *Highway Traffic Amendment Act*, 1982. Short title

BILL 17

An Act to require the use of Child Car
Seats or Restraint Systems

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

Ms. BRYDEN

(Private Member's Bill)

56
BILL 18
3

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982 4

LEGISLATIVE ASSEMBLY

An Act for the Protection of Video Display Terminal
Operators

MR. JOHNSTON
(Scarborough West)



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The purpose of the Bill is to protect the health of video display terminal operators by regulating the conditions of their employment and by setting the standards for the operation of terminals.

SECTIONS 1 AND 2. Self-explanatory.

BILL 18

1982

An Act for the Protection of Video Display Terminal Operators

HER MAJESTY, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario,
enacts as follows:

1. In this Act,

Interpre-
tation

(a) “flicker rate” means the rate, measured in Hertz, at which images on the screen of a terminal are refreshed;

(b) “health” means,

- (i) the promotion and maintenance of the highest degree of physical, mental and social well-being of workers,
- (ii) the prevention among workers of ill health caused by their working conditions,
- (iii) the protection of workers in their employment from factors adverse to their health, and
- (iv) the placing and maintenance of workers in occupational environments which are adapted to their individual physiological and psychological conditions;

(c) “health effect” means,

- (i) a temporary or permanent deterioration of visual acuity,
- (ii) headaches,
- (iii) a burning sensation of the eyes,
- (iv) muscular and skeletal problems,

(v) change in colour perception, and

(vi) such other health effect or effects as may be defined by the regulations;

(d) “inspector” means an inspector appointed under the *Occupational Health and Safety Act*;

(e) “operator” means a person who does any work at a terminal;

(f) “radiation” includes but is not limited to X-radiation, ultraviolet radiation, microwave radiation, ultrasound, infrared radiation, radio frequencies and static fields, and “radiation levels” has a corresponding meaning;

(g) “terminal” includes any electronic video screen data presentation machine, commonly called a video display terminal or cathode ray tube, any plasma screen, and any liquid crystal display, but does not include a television or oscilloscope screen except to the extent that it is used as a terminal for the presentation of data;

(h) “trade union” means a trade union as defined in the *Labour Relations Act* that has the status of exclusive bargaining agent under that Act in respect of any bargaining unit or units in a work place and includes an organization representing operators to whom this Act applies where such organization has exclusive bargaining rights under any other Act in respect of such operators.

R.S.O. 1980,
c. 321

R.S.O. 1980,
c. 228

Crown
bound

Testing
at point
of sale

Record
of tests

Duties of
employer

2. This Act binds the Crown and any agency of the Crown.

3.—(1) No person shall sell or lease a terminal in Ontario that has not been,

(a) tested to show that it emits no radiation, other than visible light; and

(b) equipped with radiation shields conforming to the regulations.

(2) Every person selling or leasing a terminal shall deliver a full record of tests conducted under clause (1) (a) to the purchaser or lessee of the terminal.

4.—(1) No employer shall permit any operator employed by him to work at a terminal unless the following conditions are met:

SECTION 3. The sale or leasing of terminals which emit any form of radiation other than visible light is prohibited. Radiation shielding is a requirement and universal radiation testing at point of production is mandatory. Records of tests are to be delivered to purchasers or lessees.

SECTION 4. Detailed standards are prescribed for the operation of terminals. A transitional provision gives one year's grace for terminals already in operation.

1. The terminal shall be equipped with a detachable keyboard or other device readily adjustable by the operator.
2. The work station shall be equipped with a copy holder that is readily adjustable by the operator.
3. The terminal shall be located on an adjustable table and the work station shall be provided with a chair that is readily adjustable for seat and backrest heights, angle and backrest tension by the operator when seated.
4. The terminal shall be equipped with brightness and contrast controls that are readily adjustable by the operator.
5. The terminal shall have character size and colour conforming to the regulations.
6. The terminal shall be equipped with an anti-reflection filter.
7. Artificial and natural lighting in the office in which a terminal is located shall be readily adjustable, maximize the use of indirect lighting and minimize glare.
8. The terminal shall be provided with an individual lighting unit equipped with a dimmer switch and readily adjustable by the operator.
9. The terminal shall not have a flicker rate lower than that prescribed by the regulations.
10. The terminal shall not have its primary heat exhausts within 1.5 metres of the position normally occupied by the operator unless there are intervening ducts, walls or insulation.
11. The terminal shall not be situated in the same room as a printer unless the printer is equipped with acoustic protection so as to reduce noise levels to standard office noise levels.
12. The terminal shall not emit radiation other than visible light.
13. The terminal shall be equipped with radiation shields conforming to the regulations.

14. The terminal shall be equipped with an individual on-off switch controlled by the operator.

15. The terminal shall comply with any further standards prescribed by regulation.

Idem

(2) Where a terminal is in operation on the day before the day this Act comes into force, the employer shall comply with subsection (1) within one year of the day this Act comes into force.

Inspection and maintenance; testing for radiation levels

5.—(1) Every employer shall, at least once in each six-month period,

(a) cause each terminal in his possession to be,

(i) inspected and maintained by qualified persons, and

(ii) tested for compliance with paragraph 12 of subsection 4 (1);

(b) cause a full lighting survey of all working areas containing terminals to be carried out by qualified persons,

and shall cause full records of all inspections, maintenance, tests and surveys to be kept.

Access to records

(2) The records kept under subsection (1), subsection 3 (2) and section 8 shall be made available to all operators employed by the employer and to any representative selected by the trade union, if any, representing the operators.

Rest periods

6.—(1) Every employer of an operator shall allow the operator a fifteen-minute rest period for each hour that the operator works at a terminal and shall not cause the operator to work at a terminal continuously for more than one hour.

Hours of work

(2) No employer shall cause an operator to work at a terminal for more than four hours in any twenty-four hour period.

Idem

(3) An operator whose contract of employment provides for normal working hours exceeding the maximum permitted by subsection (2) has the right to perform reasonable alternative work without loss of pay, seniority or other benefits during the balance of her normal working hours.

Rest area

(4) Every employer of an operator shall provide a rest area that is not located adjacent to a terminal.

Pregnancy of operator

7.—(1) An operator,

SECTION 5. Employers are required to have terminals tested, inspected and maintained and to have lighting surveys conducted semi-annually. Full records are to be kept and made available to operators and trade unions representing operators.

SECTION 6. Mandatory rest periods and maximum hours of operation are prescribed.

SECTION 7. Operators are permitted to cease working at terminals during pregnancy and while awaiting the results of pregnancy tests.

SECTION 8. An operator suffering from a medical condition that may be caused by operation of a terminal is permitted to cease working at a terminal until it has been inspected and any malfunction has been corrected.

SECTION 9. Operators who exercise their rights to request not to work at a terminal may be assigned reasonable alternative work at equal pay with no loss of seniority or benefits.

SECTION 10. Regular eye examinations at the employer's expense are prescribed. Operators are to be reimbursed for the cost of corrective lenses. The results of eye examinations are not to be used for personnel screening.

(a) who believes she may be pregnant, may, until it has been established that she is not pregnant, subject to subsection (2); or

(b) who provides her employer with the certificate of a legally qualified medical practitioner indicating that she is pregnant may, during her pregnancy,

request not to work at a terminal, without loss of pay, seniority or other benefits, and such request will be granted.

(2) Where an operator requests not to work at a terminal ^{Idem} under clause (1) (a), and does not provide her employer with the certificate referred to in clause (1) (b) by a day ninety days from the day of her refusal, the employer may require her to resume work at a terminal.

8. An operator who provides her employer with the certificate of a legally qualified medical practitioner indicating that she suffers from any physical condition that may be caused by operation of a terminal may request not to work at a terminal, without loss of pay, seniority or other benefits, until that terminal has been, ^{Refusal to work}

(a) inspected by a qualified person and repaired if necessary;

(b) tested for radiation levels; and

(c) shown to comply with subsection 4 (1).

9. Upon an operator's request not to work at a terminal under subsection 7 (1) or section 8, the employer may require her to perform reasonable alternative work. ^{Alternative work}

10.—(1) Every employer of an employee shall permit the employee to undergo an ophthalmological examination during working hours without loss of pay before becoming an operator. ^{Eye testing}

(2) Every employer of an operator shall permit the operator to ^{Idem} undergo at least one ophthalmological examination in each six-month period during working hours without loss of pay.

(3) The employer shall reimburse employees and operators for ^{Idem} any costs in respect of such ophthalmological examinations which are not covered by the Ontario Health Insurance Plan or by a group plan and for any lenses, including frames, prescribed for employees and operators.

(4) Where an operator has been assigned to work at a terminal ^{Idem} before the day this Act comes into force, the employer shall

permit the operator to undergo an ophthalmological examination during paid working hours within ninety days of the day this Act comes into force.

Results of
test not to
be used for
personnel
screening

(5) No employer shall use the results of ophthalmological examinations to screen prospective employees.

Employees
to be advised
of results

(6) Employees shall be advised of results of each test under this section.

Operator
education

11. Every employer of an operator shall,

- (a) post a copy of this Act prominently where the operator is usually stationed;
- (b) provide the operator with notice of health effects and with information about the means of alleviation of health effects; and
- (c) provide the operator with training in the safe operation of terminals.

Limitation
of individual
monitoring

12. No employer of an operator shall use a terminal to monitor the productivity of an operator on an individual basis.

Health and
safety
committee

13.—(1) Every employer of an operator shall establish a health and safety committee consisting of at least two persons of whom at least half shall be operators to be selected by the operators they represent or, where there is a trade union or trade unions representing the operators, by the trade union or trade unions.

Duties of
committee

(2) The health and safety committee shall,

- (a) investigate conditions causing health effects in the workplace and make recommendations to the employer for their correction;
- (b) participate in the employer's decisions for acquisition of equipment;
- (c) investigate, record and communicate to the employer the concerns of operators regarding health effects and working conditions.

No discipline,
dismissal,
etc., by
employer

14.—(1) No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss an operator;

SECTION 11. Employers are required to provide operators with information about the possible health effects of working at terminals and with training in their safe operations.

SECTION 12. The use of terminals for individual monitoring of operators is prohibited.

SECTION 13. Bilateral health and safety committees with consultative powers are to be established, with powers to investigate conditions causing health effects, and with a right to actively participate in employer's decisions regarding introduction of technology into the workplace.

SECTION 14. Reprisals by employers are prohibited and grievances may be referred to the Ontario Labour Relations Board.

- (b) discipline or suspend or threaten to discipline or suspend an operator;
- (c) impose any penalty upon an operator; or
- (d) intimidate or coerce an operator,

because the operator has acted in compliance with this Act or the regulations or an order made thereunder or has sought the enforcement of this Act or the regulations.

(2) Where an operator complains that an employer or person acting on behalf of an employer has contravened subsection (1), the operator may either have the matter dealt with by final and binding settlement by arbitration under a collective agreement, if any, or file a complaint with the Ontario Labour Relations Board in which case any regulations governing the practice and procedure of the Board apply, with all necessary modifications, to the complaint. Arbitration

(3) The Ontario Labour Relations Board may inquire into any complaint filed under subsection (2), and section 89 of the *Labour Relations Act*, except subsection (5), applies with all necessary modifications, as if such section, except subsection (5), is enacted in and forms part of this Act. Inquiry by
Ontario
Labour
Relations
Board
R.S.O. 1980,
c. 228

(4) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), sections 102, 103, 106, 108 and 109 of the *Labour Relations Act* apply, with all necessary modifications. Idem

(5) On an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), the burden of proof that an employer or person acting on behalf of an employer did not act contrary to subsection (1) lies upon the employer or the person acting on behalf of the employer. Onus of
proof

(6) The Ontario Labour Relations Board shall exercise jurisdiction under this section on a complaint by a Crown employee that the Crown has contravened subsection (1). Jurisdiction
when
complaint
by Crown
employee

(7) Where on an inquiry by the Ontario Labour Relations Board into a complaint filed under subsection (2), the Board determines that an operator has been discharged or otherwise disciplined by an employer for cause and the contract of employment or the collective agreement, as the case may be, does not contain a specific penalty for the infraction, the Board may substitute such other penalty for the discharge or discipline as to the Board seems just and reasonable in all the circumstances. Board may
substitute
penalty

Exception R.S.O. 1980, c. 381	(8) Notwithstanding subsection (2), a person who is subject to a rule or code of discipline under the <i>Police Act</i> shall have his complaint in relation to an alleged contravention of subsection (1) dealt with under that Act.
Enforce- ment R.S.O. 1980, c. 321	15. Subsection 6 (2) and sections 23, 28, 29, 31, 32, 33, 34, 35 and 36 of the <i>Occupational Health and Safety Act</i> apply, with all necessary modifications, to the enforcement of this Act.
Offence	16. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$25,000.
Regulations	17.— (1) The Lieutenant Governor in Council may make such regulations as are advisable to protect the health and safety of operators.
Idem	(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations, <ul style="list-style-type: none"> (a) prescribing character size and colour to be used in terminals; (b) prescribing specifications for radiation shields to be installed or used in conjunction with terminals; (c) prescribing a minimum flicker rate for terminals; (d) respecting the testing of terminals for radiation levels; (e) defining qualified persons; (f) defining health effects; (g) prescribing standards for terminals; (h) authorizing the conducting of comprehensive epidemiological studies of operators and studies of the synergistic effects of exposure to radiation from terminals; and (i) authorizing research for the development of improved instruments for radiation analysis.
Commence- ment	18. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
Short title	19. The short title of this Act is the <i>VDT Operators' Safety Act, 1982</i> .

SECTION 15. The Bill adopts the inspection and enforcement provisions of the *Occupational Health and Safety Act*.

SECTION 16. The maximum fine will be \$25,000.

SECTION 17. Self-explanatory.

BILL 18

An Act for the Protection of Video Display
Terminal Operators

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

MR. JOHNSTON
(Scarborough West)

(Private Member's Bill)

56
BILL 19

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Landlord and Tenant Act

Mr. PHILIP



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill increases from one week to three weeks the time within which a caretaker who occupies premises in connection with his employment is required to vacate those premises when his employment is terminated. The first week of this period is rent-free.

BILL 19

1982

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 115 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 115,
re-enacted

115.—(1) Notwithstanding anything in this Part, where a landlord has entered into a tenancy agreement in respect of caretaker's premises, unless otherwise agreed, the tenancy of the tenant is terminated on the day on which the employment of the tenant is terminated and the tenant shall within three weeks thereafter vacate the caretaker's premises. Termination
in respect of
caretaker's
premises

(2) If the tenant fails to vacate the premises as set out in subsection (1), the landlord may forthwith make application under section 113. Application
by landlord
under s. 113

(3) A landlord, Rent-free
period

(a) shall not charge or receive any rent or compensation from the tenant in respect of the first week of the three-week period mentioned in subsection (1); and

(b) may charge rent at the rate payable under the tenancy agreement or, where no rent was payable under the tenancy agreement, at a fair market rate, for the balance of the three-week period mentioned in subsection (1).

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Landlord and Tenant Amendment Act, 1982*. Short title

BILL 19

An Act to amend the
Landlord and Tenant Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

A20N
3
-356

BILL 20

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY
2

An Act to amend the Landlord and Tenant Act

MR. PHILIP



EXPLANATORY NOTE

The Bill clarifies a landlord's obligation to pay interest on a tenant's security deposit annually and the tenant's right to set unpaid interest off against rent. The maximum penalty for failure to pay this interest is, for a first offence, a fine equal to interest on the security deposit calculated at the Canada Savings Bond rate, and \$2,000 for subsequent offences.

BILL 20

1982

An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 84 (2) of the *Landlord and Tenant Act*, being chapter s. 84 (2),
232 of the Revised Statutes of Ontario, 1980, is repealed and the re-enacted
following substituted therefor:

(2) A landlord shall pay to the tenant, once each year on the Interest
anniversary date of the tenancy agreement, or at the end of the
tenancy if this occurs before the anniversary date, interest on the
security deposit for rent referred to in subsection (1) at the rate of
6 per cent per year.

(2a) Where a landlord fails to pay the interest referred to in Right of
subsection (2), the tenant may set the amount due off against rent set-off
payable to the landlord.

(2b) Any person who contravenes subsection (2) is guilty of Penalty
an offence and on conviction is liable to a fine not exceeding,

(a) upon the first conviction, interest on the security
deposit for the relevant period calculated at the
maximum rate or rates payable on Canada Savings
Bonds during the relevant period; and

(b) upon any subsequent conviction, \$2,000.

2. Section 122 of the said Act is repealed and the following substituted therefor: s. 122,
re-enacted

122.—(1) Any person who knowingly contravenes subsection Penalties
84 (1) or (3), or section 85, 86, 93, 94, 95, 111, 121, 125, 126 or
127 is guilty of an offence and on conviction is liable to a fine
not exceeding \$2,000.

(2) Where a landlord is convicted of the offence of contraven- Order for
ing subsection 84 (1) or (3) or section 85, the justice under the payment of
security
deposit

R.S.O. 1980,
c. 400

Provincial Offences Act making the conviction may order the landlord to pay to the tenant the security deposit or any part thereof that is unpaid.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Landlord and Tenant Amendment Act, 1982*.

An Act to amend the
Landlord and Tenant Act

1st Reading

March 11th, 1982

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)



3 1761 11470959 5